

**EXHIBIT "E"**

**Articles of Incorporation**

OF THE

STATE

OF

## ARTICLES OF INCORPORATION

OF

HAMILTON BAY COMMUNITY ASSOCIATION, INC.

2001 MAY -9 PM 2:45

SECRETARY OF STATE  
TALLAHASSEE FLORIDAPREAMBLE:

GOLDEN WEST LIMITED PARTNERSHIP, a Virginia limited partnership, hereinafter referred to as "DECLARANT", owns certain property in Palm Beach County, Florida. DECLARANT intends to record a Master Declaration for Hamilton Bay (the "DECLARATION") which will affect the property. This Association is being formed to administer the DECLARATION and to perform, among other things, the duties and exercise the powers pursuant to the DECLARATION, as and when the DECLARATION is recorded in the Public Records of Palm Beach County, Florida, with these Articles attached as an Exhibit. All of the definitions contained in the DECLARATION shall apply to these Articles, and to the Bylaws of the COMMUNITY ASSOCIATION. Until such time as the DECLARATION is so recorded, the incorporator shall be the member of the COMMUNITY ASSOCIATION.

ARTICLE 1 - NAME AND ADDRESS:

The name of the corporation is: HAMILTON BAY COMMUNITY ASSOCIATION, INC. (hereinafter referred to as the "COMMUNITY ASSOCIATION"). The initial address of the principal office of the COMMUNITY ASSOCIATION and the initial mailing address of the COMMUNITY ASSOCIATION is 448 Viking Drive, Suite 225, Virginia Beach, Va 23452.

ARTICLE 2 - PURPOSE

The purposes for which the COMMUNITY ASSOCIATION is organized are as follows:

- 2.1 To operate as a corporation not-for-profit pursuant to Chapter 617 of the Florida Statutes.
- 2.2 To administer, enforce and carry out the terms and provisions of the DECLARATION, as same may be amended from time to time.
- 2.3 To administer, enforce and carry out the terms and provisions of any other declaration of covenants and restrictions, or similar document, submitting property to the jurisdiction of, or assigning responsibilities, rights or duties to the COMMUNITY ASSOCIATION, and accepted by the BOARD.
- 2.4 To promote the health, safety, welfare, comfort, and social and economic welfare of the members and residents of the SUBJECT PROPERTY, as authorized by the DECLARATION, by these ARTICLES, and by the BYLAWS.

ARTICLE 3 - POWERS

The COMMUNITY ASSOCIATION shall have the following powers:

- 3.1 All of the common law and statutory powers of a corporation not-for-profit under the laws of Florida which are not in conflict with the terms of these ARTICLES.

MASTER ARTICLES-1

3.2 All of the powers, express or implied, granted to the COMMUNITY ASSOCIATION by the DECLARATION or which are reasonably necessary in order for the COMMUNITY ASSOCIATION to administer, enforce, carry out and perform all of the acts, functions, rights and duties provided in, or contemplated by, the DECLARATION.

3.3 To make, establish and enforce rules and regulations governing the use and maintenance of the SUBJECT PROPERTY.

3.4 To make and collect ASSESSMENTS and PARCEL ASSESSMENTS against the members to defray the costs, expenses, reserves and losses incurred or to be incurred by the COMMUNITY ASSOCIATION and to use the proceeds thereof in the exercise of the COMMUNITY ASSOCIATION's powers and duties.

3.5 To own, purchase, sell, mortgage, lease, administer, manage, operate, maintain, improve, repair and/or replace real and personal property.

3.6 To purchase insurance for the protection of the COMMUNITY ASSOCIATION, its officers, directors, the members, and such other parties as the COMMUNITY ASSOCIATION may determine to be in the best interests of the COMMUNITY ASSOCIATION.

3.7 To operate, maintain, repair, and improve all COMMON AREAS and PARCEL AREAS, and such other portions of the SUBJECT PROPERTY as may be determined by the BOARD from time to time.

3.8 To exercise architectural control over all buildings, structures and improvements to be placed or constructed upon any portion of the SUBJECT PROPERTY pursuant to the DECLARATION.

3.9 To provide, purchase, acquire, replace, improve, maintain and/or repair such buildings, structures, street lights and other structures, landscaping, paving and equipment, both real and personal, related to the health, safety and social welfare of the members and residents of the SUBJECT PROPERTY as the BOARD in its discretion determines necessary or appropriate.

3.10 To employ personnel necessary to perform the obligations, services and duties required of or to be performed by the COMMUNITY ASSOCIATION and/or to contract with others for the performance of such obligations, services and/or duties.

3.11 To operate and maintain the surface water management, drainage, and storage system for the SUBJECT PROPERTY as permitted by any controlling governmental authority, including all lakes, retention areas, culverts, and related appurtenances.

3.12 To sue and be sued.

#### ARTICLE 4 - MEMBERS

##### 4.1 MEMBERS.

4.1.1 OWNERS. Each OWNER shall be a member of the COMMUNITY ASSOCIATION, except as otherwise provided in the DECLARATION. Such memberships shall be initially established upon the recording of these ARTICLES and the DECLARATION among the public records of the county in which the SUBJECT PROPERTY is located.

4.1.2 Notwithstanding the foregoing, no governmental authority or utility company shall be deemed a member unless one or more UNITS actually exist upon the PROPERTY owned by such governmental authority or utility company, in which event the governmental authority or utility company will be a member only with respect to the PROPERTY owned in conjunction with such UNIT(s).

4.1.3 DECLARANT AND PARCEL DEVELOPERS. DECLARANT and each PARCEL DEVELOPER shall be a member of the COMMUNITY ASSOCIATION so long as they own any PROPERTY.

4.2 Transfer of Membership. In the case of an OWNER, transfer of membership in the COMMUNITY ASSOCIATION shall be established by the recording in the Public Records of the county in which the SUBJECT PROPERTY is located, of a deed or other instrument establishing a transfer of record title to any PROPERTY for which membership has already been established as hereinabove provided, the OWNER designated by such instrument of conveyance thereby becoming a member, and the prior OWNER's membership thereby being terminated. In the event of death of an OWNER, his membership shall be automatically transferred to his heirs or successors in interest. Notwithstanding the foregoing, the COMMUNITY ASSOCIATION shall not be obligated to recognize such a transfer of membership until such time as the COMMUNITY ASSOCIATION receives a true copy of the deed or other instrument establishing the transfer of ownership of the PROPERTY, and it shall be the responsibility and obligation of the former and new OWNER of the PROPERTY to provide such true copy of said instrument to the COMMUNITY ASSOCIATION.

4.3 The share of an OWNER in the funds and assets of the COMMUNITY ASSOCIATION cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the PROPERTY associated with the membership of the OWNER, nor may a membership be separately assigned, hypothecated or transferred in any manner except as an appurtenance to such PROPERTY.

4.4 Voting Rights. The total number of OWNERS' votes shall be equal to the total number of UNITS and PLANNED UNITS within the SUBJECT PROPERTY from time to time. On all matters upon which the membership shall be entitled to vote, there shall be one (1) vote for each UNIT and PLANNED UNIT.

4.4.1 Each OWNER shall have the number of votes equal to the number of UNITS and PLANNED UNITS within the PROPERTY associated with the membership of such OWNER at the time of such vote.

4.4.2 Notwithstanding the foregoing, DECLARANT shall have three votes for each UNIT and each PLANNED UNIT contained with the PROPERTY owned by DECLARANT.

4.5 The BYLAWS shall provide for an annual meeting of the members of the COMMUNITY ASSOCIATION and may make provision for special meetings of the members.

#### ARTICLE 5 - DIRECTORS

5.1 The affairs of the COMMUNITY ASSOCIATION shall be managed by a BOARD consisting of not less than three (3) directors, and which shall always be an odd number. The number of directors shall be determined in accordance with the BYLAWS. In the absence of such determination, there shall be three (3) directors so long as DECLARANT has the right to appoint any director, and thereafter the number of directors shall be equal to the number of PARCELS (plus one of there are an even number of PARCELS).

## 5.2 Election of Directors.

5.2.1 DECLARANT shall have the right to appoint all of the directors of the COMMUNITY ASSOCIATION so long as DECLARANT owns any LOT or any PROPERTY which is planned to contain a UNIT or any property that may be added to the SUBJECT PROPERTY, or until DECLARANT waives its right to appoint the directors by written notice to the COMMUNITY ASSOCIATION.

5.2.2 At such time as DECLARANT no longer has the right to appoint the directors, the PARCEL DEVELOPERS shall have the right to appoint all of the directors. If there are two or more PARCEL DEVELOPERS, unless otherwise agreed between them each such PARCEL DEVELOPER shall have the right to appoint one director, and if there are only two or an even number of PARCEL DEVELOPERS, the PARCEL DEVELOPER with the largest number of LOTS shall have the right to appoint one additional director. Any PARCEL DEVELOPER may waive its right to appoint a director by written notice to the COMMUNITY ASSOCIATION.

5.2.3 At such time as DECLARANT and the PARCEL DEVELOPERS no longer have the right to appoint the directors, the directors shall be elected by the members. Notwithstanding anything contained herein to the contrary, members other than DECLARANT shall at all times have the right to elect any or all of the directors as may be provided by applicable law. Furthermore, DECLARANT and the PARCEL DEVELOPERS shall have the right to vote as members for the election of directors, subject to applicable law.

5.3 All of the duties and powers of the COMMUNITY ASSOCIATION existing under Chapter 617 of the Florida Statutes, the DECLARATION, these ARTICLES and the BYLAWS shall be exercised exclusively by the BOARD, its agents, contractors or employees, subject to approval by the members only when specifically required.

5.4 Directors may be removed and vacancies on the BOARD shall be filled in the manner provided by the BYLAWS, however, any director appointed by DECLARANT or a PARCEL DEVELOPER may only be removed by DECLARANT or the PARCEL DEVELOPER so long as DECLARANT or the PARCEL DEVELOPER has the right to appoint the director, and any vacancy on the BOARD shall be appointed by DECLARANT or a PARCEL DEVELOPER if, at the time such vacancy is to be filled, the number of remaining directors appointed by DECLARANT or the PARCEL DEVELOPER is less than the maximum number of directors which may, at that time, be appointed by DECLARANT or the PARCEL DEVELOPER as set forth above.

## ARTICLE 6 - OFFICERS

The officers of the COMMUNITY ASSOCIATION shall be a President, Vice President, Secretary, Treasurer and such other officers as the BOARD may from time to time by resolution create. The officers shall serve at the pleasure of the BOARD, and the BYLAWS may provide for the removal from office of officers, for filling vacancies, and for the duties of the officers. The names of the officers who shall serve until their successors are designated by the BOARD are as follows:

## ARTICLE 7 - INDEMNIFICATION

7.1 The COMMUNITY ASSOCIATION shall indemnify any PERSON who was or is a party or is threatened to be made a party, to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, employee, officer, or agent of the COMMUNITY ASSOCIATION, or a member of any

committee thereof, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the COMMUNITY ASSOCIATION; and, with respect to any criminal action or proceeding, if he had no reasonable cause to believe his conduct was unlawful; except, that no indemnification shall be made in respect to any claim, issue or matter as to which such PERSON shall have been adjudged to be liable for gross negligence or willful misfeasance or malfeasance in the performance of his duty to the COMMUNITY ASSOCIATION unless and only to the extent that the court in which such action or suit was brought shall determine, upon application, that despite the adjudication of liability, but in view of all the circumstances of the case, such PERSON is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, in and of itself, create a presumption that the PERSON did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the COMMUNITY ASSOCIATION; and with respect to any criminal action or proceeding, that he had no reasonable cause to believe that his conduct was unlawful.

7.2 To the extent that a director, officer, employee or agent of the COMMUNITY ASSOCIATION, or a member of any committee thereof, has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Paragraph 1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.

7.3 Any indemnification under Paragraph 1 above (unless ordered by a court) shall be made by the COMMUNITY ASSOCIATION only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, agent, or committee member is proper under the circumstances because he has met the applicable standard of conduct set forth in Paragraph 1 above. Such determination shall be made (a) by the BOARD by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such quorum is not obtainable, or, even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in written opinion, or (c) by a majority vote of the members.

7.4 Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the COMMUNITY ASSOCIATION in advance of the final disposition of such action, suit or proceeding as authorized by the BOARD in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the COMMUNITY ASSOCIATION as authorized in this Article.

7.5 The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the laws of the State of Florida, any Bylaw, agreement, vote of members or otherwise; and as to action taken in an official capacity while holding office, shall continue as to a PERSON who has ceased to be a director, officer, employee, agent, or committee member and shall inure to the benefit of the heirs, executors and administrators of such a PERSON.

7.6 The COMMUNITY ASSOCIATION shall have the power to purchase and maintain insurance on behalf of any PERSON who is or was a director, officer, employee or agent of the COMMUNITY ASSOCIATION, or a member of any committee thereof, or is or was serving at the request of the COMMUNITY ASSOCIATION as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and

incurred by him in any such capacity, as arising out of his status as such, whether or not the COMMUNITY ASSOCIATION would have the power to indemnify him against such liability under the provisions of this Article.

ARTICLE 8 - BYLAWS

The first BYLAWS shall be adopted by the BOARD, and may be altered, amended or rescinded in the manner provided by the BYLAWS.

ARTICLE 9 - AMENDMENTS

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

9.1 A majority of the BOARD shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the members, which may be the annual or a special meeting.

9.2 Written notice setting forth the proposed amendment or a summary of the changes to be affected thereby shall be given to each member entitled to vote thereon within the time and in the manner provided in the BYLAWS for the giving of notice of a meeting of the members. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

9.3 At such meeting, a vote of the members entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the votes of the entire membership of the COMMUNITY ASSOCIATION.

9.4 Any number of amendments may be submitted to the members and voted upon by them at any one meeting.

9.5 In addition to the above, so long as DECLARANT appoints a majority of the directors of the COMMUNITY ASSOCIATION, DECLARANT shall be entitled to unilaterally amend these ARTICLES and the BYLAWS. Furthermore, no amendment shall make any changes which would in any way affect any of the rights, privileges, power or options herein provided in favor of, or reserved to, DECLARANT, unless DECLARANT joins in the execution of the amendment.

9.6 Upon the approval of an amendment to these ARTICLES, Articles of Amendment shall be executed and delivered to the Department of State as provided by law, and a copy certified by the Department of State shall be recorded in the public records of the county in which the SUBJECT PROPERTY is located.

ARTICLE 10 - TERM

The COMMUNITY ASSOCIATION shall have perpetual existence.

ARTICLE 11 - INCORPORATOR

The name and street address of the incorporator is: Eric A. Simon, 2825 University Drive, Suite 300, Coral Springs, Florida 33065.

ARTICLE 12 - INITIAL REGISTERED OFFICE ADDRESS AND NAME OF INITIAL REGISTERED AGENT

The initial registered office of the COMMUNITY ASSOCIATION shall be at 2825 University Drive, Suite 300, Coral Springs, Florida 33065. The initial registered agent of the COMMUNITY ASSOCIATION at that address is Eric A. Simon.

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SECRETARY OF STATE  
TALLAHASSEE FLORIDA

ARTICLE 13 - DISSOLUTION

The COMMUNITY ASSOCIATION may be dissolved as provided by law, provided that any such dissolution shall require the affirmative vote of 80% of all of the members. In the event of dissolution or final liquidation of the COMMUNITY ASSOCIATION, the assets, both real and personal of the COMMUNITY ASSOCIATION, shall be dedicated to an appropriate public agency or utility to be devoted to purposes as nearly as practicable to the same as those to which they were required to be devoted by the COMMUNITY ASSOCIATION. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization, to be devoted to purposes as nearly as practicable to the same as those to which they were required to be devoted by the COMMUNITY ASSOCIATION. No such disposition of COMMUNITY ASSOCIATION properties shall be effective to divest or diminish any right or title of any OWNER vested under the DECLARATION unless made in accordance with the provisions of such DECLARATION.

IN WITNESS WHEREOF, the incorporator and the initial registered agent have executed these ARTICLES. By executing these ARTICLES, the undersigned registered agent accepts the appointment as registered agent and states that the undersigned is familiar with, and accepts, the obligations of that position.

WITNESSES:

*[Signature]*  
\_\_\_\_\_

*[Signature]*  
Eric A. Simon, as Incorporator and as Registered Agent

STATE OF FLORIDA

SS:  
COUNTY OF *FLUM BERCIL*

The foregoing instrument was acknowledged before me this *6<sup>th</sup>* day of *May*, 200*1* by Eric A. Simon, as Incorporator and as Registered Agent. He/she is personally known to me or has produced *[Signature]* as identification.

*[Signature]*  
NOTARY PUBLIC  
State of Florida at Large



Jennifer Marcus-Toyota  
Commission # CG 849185  
Expires July 17, 2003  
Bonded Thru  
Atlantic Bonding Co., Inc.

**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
FOR  
HAMILTON BAY COMMUNITY ASSOCIATION, INC.  
(a corporation not-for-profit)**

The Board of Directors and Members of Hamilton Bay Community Association, Inc , a Florida corporation not-for-profit (the "Association") have duly adopted the following Amended and Restated Articles of Incorporation pursuant to the provisions of Sections 607 0704, 607 1003 and 607.1007 of the Florida Business Corporation Act:

WHEREAS, the Association was incorporated on May 9, 2001;

WHEREAS, the Association's board of directors adopted these Amended and Restated Articles of Incorporation of the Association on May 17, 2002; and

WHEREAS, these Amended and Restated Articles of Incorporation of the Association were approved by a unanimous vote of the Members of the Association, no other voting group is entitled to vote on the amendment, the number of votes casts for the amendment by the Members of the Association was sufficient for approval, and the date of adoption by the Members of the Association was May 17, 2002.

The Corporation's Amended and Restated Articles of Incorporation are as follows:

**ARTICLE I.- DEFINITIONS**

Each term used herein, except as otherwise defined herein, is defined in the Declaration of Covenants, Conditions and Restrictions of Hamilton Bay (the "Declaration") recorded, or to be recorded, among the Public Records of Palm Beach County, Florida by M/I Schottenstein Homes, Inc. (the "Developer") and shall have the same meaning or definition used herein as the meaning or definition ascribed thereto in the Declaration

**ARTICLE II.  
PRINCIPAL PLACE OF BUSINESS AND MAILING ADDRESS**

The initial principal place of business and mailing address of the corporation shall be 4 Harvard Circle, Suite 950, West Palm Beach, Florida 33409.

**ARTICLE III. - PURPOSE(S)**

The corporation is organized as a corporation not-for-profit under Chapter 720 of the laws of the State of Florida. The specific purposes for which the corporation is organized are:

1 To promote the health, safety and social welfare of the Owners of Property within that residential area referred to as Hamilton Bay and described in the Declaration

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2 To own and maintain, repair and replace the general and/or Common Area, landscaping and other improvements in and/or benefiting the property for which the obligation to maintain and repair has been delegated and accepted.

3 To control the specifications, architecture, design, appearance, elevation and location of, and landscaping around, all buildings and improvements of any type, including walls, fences, swimming pools, antennae, sewers, drains, disposal systems or other structures constructed, placed or permitted to remain in the Property, as well as the alteration, improvement, addition or change thereto.

4 To operate without profit for the benefit of its Members

5 To perform those functions reserved by the Association in the Declaration

**ARTICLE IV. - GENERAL POWERS**

The general powers that the Association shall have are as follows:

1 To hold funds solely and exclusively for the benefit of the Members for the purposes set forth in these Articles of Incorporation.

2 To promulgate and enforce rules, regulations, bylaws, covenants, restrictions and agreements to effectuate the purposes for which the Association is organized.

3 To delegate power or powers where such is deemed in the interest of the Association.

4 To affix assessments to be levied against Lots within the Property and the costs of effectuating the objects and purposes of the Association and to create reasonable reserves for such expenditures, and to authorize its Board of Directors, in its discretion, to enter into agreements with mortgage companies and other organizations for the collection of such assessments.

5 To pay taxes and other charges, if any, on or against the Common Area.

6 To have all express powers conferred upon the Association by the Declaration.

7 To have all powers conferred upon a corporation by the laws of the State of Florida, except as prohibited herein. The Common Area cannot be mortgaged or conveyed without the affirmative vote of at least two-thirds of the Class A Membership.

**ARTICLE V.  
MANNER OF ELECTION OF DIRECTORS**

Directors shall be elected or appointed in accordance with the provisions of the Bylaws of the Association

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**ARTICLE VI. - MEMBERS**

1 Every Owner of a Lot which is subject to Assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment.

2. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Developer, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot

Class B. The Class B Member(s) shall be the Developer. The Class B Member shall be entitled to the same number of votes held by all other Members of the Association plus one; provided, however, that notwithstanding any provision to the contrary, the Developer shall have the right to appoint the entire Board of Directors of the Association until three months after 90% of the Lots (in all phases of the Property subjected to the terms and provisions of the Declaration) have been conveyed to Owners other than the Developer, or at an earlier date at the sole discretion of the Developer. At such time, the Class B Membership shall cease and be converted to Class A Membership and the Developer shall call a meeting in accordance with the provisions herein for Special Meetings, to provide for the turnover of control of the Board of Directors to the Owners. The Developer shall have the right, in its sole discretion, to appoint one member of the Board of Directors for so long as the Developer owns at least five percent of the Lots within the Property. Notwithstanding the foregoing until the Phase 2 Property is subjected by the owner thereof to the terms and provisions of the Declaration, pursuant to Article II, Section 2 of the Declaration, the Developer will not turnover control of the Board of Directors to the Owners earlier than the date which is three months after 90% of the Lots (in all phases of the Property subjected to the terms and provisions of the Declaration) have been conveyed to Owners other than Developer, unless otherwise required by the Declaration or applicable law.

**ARTICLE VII. - DIRECTORS**

The Board of Directors of the Corporation shall be comprised of at least three (3) directors. The initial members of the Board of Directors and their street addresses are:

Mark Welch	4 Harvard Circle, Suite 950 West Palm Beach, Florida 33409
Hank Motzer	4 Harvard Circle, Suite 950 West Palm Beach, Florida 33409
Marilou Gonzalez	4 Harvard Circle, Suite 950 West Palm Beach, Florida 33409

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As long as Developer shall have the right to appoint the entire Board of Directors, Directors need not be Members of the Association and need not be residents of the State of Florida. All Directors appointed by the Developer shall serve at the pleasure of the Developer, and may be removed from office, and a successor Director may be appointed at any time by the Developer. At the first annual election to the Board of Directors where Directors are elected by the Members, the term of office of the elected Director receiving the highest plurality of votes shall be established at two (2) years, with the other elected Directors to serve for a term of one (1) year. Elections shall be by plurality votes. All Directors shall hold office until the election of new directors at the next annual meeting or resignation of said Director. Each year thereafter, as many Directors shall be elected and appointed, as the case may be, as there are regular terms of office of Directors expiring at such time, and the term of the Director so elected or appointed at each annual election shall be for two (2) years expiring at the second annual election following their election, and thereafter until their successors are duly elected and qualified, or until removed from office with or without cause by the affirmative vote of a majority of the Members which elected or appointed them. Any Director appointed by the Class B Member shall serve at the pleasure of the Class B Member and may not be removed except by action of the Class B Member, and may be removed from office, and a successor director may be appointed, at any time by the Class B Member.

### ARTICLE VIII. - OFFICERS

The Officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, and such other officers as the Board of Directors may from time to time, by resolution, create. Any two or more offices may be held by the same person except the offices of President and Secretary. Officers shall be elected for one (1) year terms in accordance with the procedures set forth in the Bylaws. The names of the Officers who are to manage the affairs of the Association until the first annual meeting of the Board of Directors and until their successors are duly elected and qualified are:

President	Mark Welch
Secretary/Treasurer	Hank Motzer
Vice President	Marilou Gonzalez

### ARTICLE IX. INITIAL REGISTERED AGENT AND STREET ADDRESS

The street address of the Corporation's initial registered office is: 4 Harvard Circle, Suite 950, West Palm Beach, FL 33409 and the name of the initial Registered Agent at such address is: Mark Welch.

### ARTICLE X. - CORPORATE EXISTENCE

The Association shall have perpetual existence.

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**ARTICLE XI. - BYLAWS**

The Board of Directors shall adopt Bylaws consistent with these Articles.

**ARTICLE XII.**  
**AMENDMENTS TO ARTICLES OF INCORPORATION AND BYLAWS**

Amendment of these Articles requires the approval of at least two-thirds of the membership votes. Notwithstanding anything herein to the contrary, for so long as the Developer has the right to appoint the entire Board of Directors of the Association, the Developer or its successor or assign shall be permitted to unilaterally amend these Articles. For so long as the Developer has the right to appoint the entire Board of Directors of the Association, no amendment of these Articles may be made without the consent of the Developer. No amendment of these Articles which would affect the Hamal Community Development District's obligations, property interests, facilities or improvements located within the Property shall be effective unless agreed to in writing by the Hamal Community Development District. For so long as Developer owns any portion of the Property, no amendment of these Articles shall impair or prejudice in any way the rights and privileges of Developer granted under these Articles unless Developer joins in the execution of such amendment. As long as Golden West or its designated successors or assigns owns any portion of the Phase 2 Property, whether or not it is subjected to the terms and provisions of the Declaration, no amendment of these Articles shall impair or prejudice in any way the rights and privileges of Golden West (or any other owner of any of the Phase 2 Property) granted under these Articles unless Golden West or its designated successors or assigns joins in the execution of such amendment.

**ARTICLE XIII.**  
**INDEMNIFICATION OF OFFICERS AND DIRECTORS**

1. The Association hereby indemnifies any Director or Officer made a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding:

a. Whether civil, criminal, administrative or investigative, other than one by or in the right of the Association to procure a judgment in its favor, brought to impose a liability or penalty on such person for any act alleged to have been committed by such person in his capacity of Director or Officer of the Association, or in his capacity as a Director, Officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees, actually and necessarily incurred as a result of such action, suit or proceeding or any appeal therein, if such person acted in good faith in the reasonable belief that such action was in the best interests of the Association, and in criminal actions or proceedings, without reasonable ground for belief that such action was unlawful. The termination of any such action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not in itself create a presumption that any such Director or Officer did not act in good faith in the reasonable belief

that such action was in the best interests of the Association or that he had reasonable grounds for belief that such action was unlawful

b. By or in the right of the Association to procure a judgment in its favor by reason of his being or having been a Director or Officer of the Association, or by reason of his being or having been a Director, Officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense or settlement of such action, or in connection with an appeal therein, if such person acted in good faith in the reasonable belief that such action was in the best interests of the Association. Such person shall not be entitled to indemnification in relation to matters as to which such person has been adjudged to have been guilty of negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court, administrative agency, or investigative body before which such action, suit or proceeding is held shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which such tribunal shall deem proper.

2. The Board of Directors shall determine whether amounts for which a Director or Officer seeks indemnification were properly incurred and whether such Director or Officer acted in good faith and in a manner he reasonably believed to be in the best interests of the Association, and whether, with respect to any criminal action or proceeding, he had no reasonable ground for belief that such action was unlawful. Such determination shall be made by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding.

3. The foregoing rights of indemnification shall not be deemed to limit in any way the powers of the Association to indemnify under applicable law.

**ARTICLE XIV.**  
**TRANSACTIONS IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED**

1. With the exception of Directors and Officers appointed by the Class B Members, any financial or familial interest of an Officer or Director in any contract or transaction between the Association and one (1) or more of its Directors or Officers, or between the Association and any other corporation, partnership, association or other organization in which one (1) or more of its Directors or Officers are directors or officers, or have a financial interest, shall be disclosed, and further shall be voidable solely for this reason, or solely because the Director or Officer is present at or participates in the meeting of the Board or committee thereof which authorized the contract or transaction or solely because his or their votes are counted for such purpose. No Director or Officer of the Association shall incur liability by reason of the fact that he is or may be interested in any such contract or transaction.

2 Interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorized the contract or transaction, but must abstain from voting on the issue.

**ARTICLE XV. - DISSOLUTION**

The Association may be dissolved if Members representing three-fourths (3/4) of the total votes of the Association vote in favor of dissolution. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

IN WITNESS WHEREOF, the Association has caused these Amended and Restated Articles of Incorporation to be signed by its undersigned officer this 17th day of May, 2002.

HAMILTON BAY COMMUNITY  
ASSOCIATION, INC., a Florida corporation  
not-for-profit

By: [Signature]  
Mark Welch, President

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 17th day of MAY, 2002, by Mark Welch, as President of the Hamilton Bay Community Association, Inc., who is personally known to me or who has produced a Florida driver's license as identification.



Lynda C Tobias  
My Commission CC780053  
Expires October 4 2002

Serial Number: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

[Signature]  
Notary Public  
Name: LYNDA C. TOBIAS

**REGISTERED AGENT**

The undersigned hereby accepts appointment as Registered Agent of Hamilton Bay Community Association, Inc. this 17th day of May, 2002.

[Signature]  
Mark Welch