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BANYAN HOMES
301 N US HWY 27 STE G
CLERMONT, FL 34711

CFN 2005084764
Bk 02853 Pgs 0211 - 213; (3pgs)
DATE: 06/07/2005 09:28:17 AM
JAMES C. WATKINS, CLERK OF COURT
LAKE COUNTY
RECORDING FEES 27.00

This document has been prepared by
and should be returned to:
James G Willard, Esq.
Shutts & Bowen LLP
300 S. Orange Ave., Suite 1000
Orlando, Florida 32801-3373

Cross-Reference to Declaration:
OR Book _____
Page _____

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR TIMBERLANE**

THIS FIRST AMENDMENT to Declaration of Covenants, Conditions and Restrictions for Timberlane (the "First Amendment") is made this 26th day of May 26th, 2005, by Banyan Construction & Development, Inc., a Florida Corporation ("Declarant") being one and the same as the Declarant in that certain Declaration of Covenants, Conditions and Restrictions for Timberlane, recorded April 11, 2005, in Official Records Book 2803, Page 1478 - 1557, Public Records of Lake County, Florida (the "Original Declaration," this First Amendment and the Original Declaration being collectively the "Declaration").

W I T N E S S E T H :

WHEREAS, Declarant executed and recorded the Original Declaration, imposing certain covenants, restrictions, charges, easements and liens upon certain real property located in Lake County, Florida, as more particularly described in the Original Declaration; and

WHEREAS, Declarant's affiliate, Banyan Homes ("Banyan"), as applicant on behalf of Declarant for city sewer services to be provided to the Property identified in the Original Declaration, entered into that certain Sewer Service Agreement with the City of Clermont, Florida (the "City"), recorded April 21, 2004, in Official Records Book 2551, Page 704, Public Records of Lake County, Florida (the "Sewer Service Agreement"); and

WHEREAS, among other things, the Sewer Service Agreement contemplates the potential for annexation of the Property into the boundaries and jurisdiction of the City, and contemplates notice of this potential for annexation to be incorporated as a deed restriction or other recorded covenant running with the Property; and

WHEREAS, Declarant desires to incorporate the Sewer Service Agreement's annexation covenant requirement as a term of the Original Declaration.

NOW THEREFORE, pursuant to the power and authority retained by Declarant under the Original Declaration, and for good and valuable consideration the receipt and sufficiency of which are acknowledged by Declarant, Declarant hereby declares as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

2. **Definitions.** The term "annexation" as used herein does not have the same meaning as "Annexation" as set forth in the Original Declaration. The term "annexation" herein shall have the same meaning as set forth in Section 171.031(1), Florida Statutes. All other terms contained herein, if also contained in the Original Declaration, shall have the same meaning as in the Original Declaration.

3. **Acknowledgment and Annexation.** All Owners and Members of the Association acknowledge the Sewer Service Agreement. Pursuant to Section 3.1 thereof, the City may annex the Property into the City if the City chooses to do so. All Owners and Members hereby consent to and shall cooperate in the event of such annexation, including without limitation signing any and all documents legally or reasonably required to facilitate and complete such annexation.

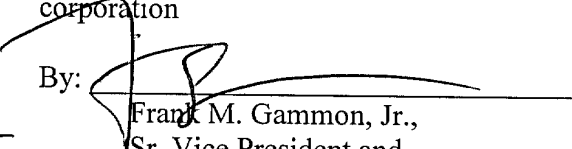
13. **Effective Date.** This First Amendment shall become effective upon being recorded in the Public Records of Lake County.

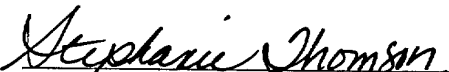
IN WITNESS WHEREOF, Declarant has executed this First Amendment on the date first written above.

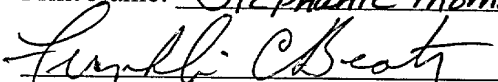
Signed in the presence of:

DECLARANT:

BANYAN CONSTRUCTION AND DEVELOPMENT, INC., a Florida corporation

By: 
Frank M. Gammon, Jr.,
Sr. Vice President and
General Manager


Print Name: Stephanie Thomson


Print Name: FRANKLIN C. BEATY

STATE OF FLORIDA
COUNTY OF Lake

The foregoing instrument was acknowledged before me this 27th day of May, 2005, by FRANK M. GAMMON, JR., as Sr. Vice President and General Manager of **BANYAN CONSTRUCTION AND DEVELOPMENT, INC.**, a Florida corporation, on behalf of the corporation. He is personally known to me, or produced _____ as identification.



Deby Wilson
Notary Public, State of Florida
Notary Stamp: