

Retn:  
BAYSWATER FALLING WATERS  
7200 DAVIS BLVD  
NAPLES FL 34102

3007937 OR: 3065 PG: 1316

RECORDED in the OFFICIAL RECORDS of COLLIER COUNTY, FL  
07/02/2002 at 03:51PM DWIGHT B. BROCK, CLERK

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**THIRD AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR FALLING WATERS BEACH RESORT**

**THIS THIRD AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FALLING WATERS BEACH RESORT** (this "**Second Amendment**") is made as of June 28, 2002, by Bayswater Falling Waters, LLC, a Delaware limited liability company whose mailing address is 100 South Bedford Road, Mount Kisco, New York 10549 ("**Bayswater**").

WITNESSETH:

**WHEREAS**, Bayswater, as successor in interest to Falling Waters Beach Resort, Limited, a Florida limited partnership, and Falling Waters Beach Resort, Inc., a Florida corporation, is the "Declarant" and "Developer" under that certain Declaration of Covenants, Conditions and Restrictions for Falling Waters Beach Resort, recorded May 9, 1997 in Official Record Book 2312, page 1187, of the public records of Collier County, Florida (the "**Declaration**"); and

**WHEREAS**, Section 6.1 of the Declaration provides that the Declarant or Developer may "amend [the] Declaration unilaterally, at any time, without prior notice and without the consent of any person or entity, upon such conditions, in such form and for such purposes as it shall in its sole discretion deem appropriate by preparing and recording amendments [thereto], provided, however, that [the] right of unilateral amendment shall expire after all portions of the Commercial Property and all condominium units controlled by the Declaration have been sold" (*emphasis added*); and

**WHEREAS**, pursuant to Section 6.1 of the Declaration, on or about March 12, 2002, the Declarant made the first amendment to the Declaration (the "**First Amendment**") pursuant to which, among other things, the Declarant provided that the Commercial Property may be used as a commercial self-storage facility with an office and manager apartment as provided in the Collier County Land Development Code; and

**WHEREAS**, pursuant to Section 6.1 of the Declaration, on or about June 21, 2002, the Declarant made the second amendment to the Declaration (the "**Second Amendment**") pursuant to which, among other things, the Declarant created easements in favor of certain entities and individuals over, upon and under the Commercial Property for the continued existence of certain utility improvements located within and/or upon the Commercial Property that serve the Falling Waters Beach Resort Master Association, Inc. and other Condominium Associations within the Property subject to the Declaration.

**WHEREAS**, Bayswater, is the current Declarant and Developer under the Declaration, and the owner of several condominium units within the Property subject to the Declaration; and

**WHEREAS**, Bayswater desires to further amend the Declaration to withdraw the Commercial Property Utility Easement, as more particularly described herein.

**NOW, THEREFORE**, in consideration of the covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, Bayswater, as Declarant and Developer under the Declaration, pursuant to Section 6.1 thereof, hereby further amends the Declaration as follows:

1. Section 15 of the Declaration is hereby deleted in its entirety and the Commercial Property Utility Easement is hereby cancelled, withdrawn, made a nullity, and rendered null and void.

2. Any capitalized term used in this Third Amendment that is not defined herein shall have the meaning assigned to the same in the Declaration, the First Amendment and/or the Second Amendment, as the case may be.

3. Invalidation of any one (1) or more of the provisions of this Third Amendment by judgment or court order shall not affect the validity of any other provisions, which shall remain in full force and effect.

4. All other provisions of the Declaration, as previously amended by the First Amendment and the Second Amendment, that are not amended hereby or that are not in conflict herewith or in contradiction hereof shall remain in full force and effect, as is such other provisions of the Declaration, First Amendment and Second Amendment were set forth herein in their entirety.

WITNESSES:

**BAYSWATER FALLING WATERS, LLC**

Witness as to *[Signature]*

By: *[Signature]*

Printed: Gary Friedland

Title: Vice President

Witness as to *[Signature]*

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF WESTCHESTER )

I hereby certify that on this day before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgments, personally appeared GARY FRIEDLAND known to me to be the person described in and who executed the foregoing Second Amendment to Declaration of Covenants, Conditions and Restrictions for Falling Waters Beach Resort and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the county and state last aforesaid this 28<sup>th</sup> day of June, 2002.

Notary Public - State of NEW YORK  
ANTHONY J. KUNNY  
(Print Commission Name of Notary Public)  
Did \_\_\_\_\_ Did Not \_\_\_\_\_ Take an Oath  
Personally Known  /Produced ID \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

*Anthony J. Kunny*  
ANTHONY J. KUNNY  
Notary Public, State of New York  
No. 01KU5035078  
Qualified in Westchester County  
Commission Expires Oct. 24, 2002

NOT A CERTIFIED COPY

OR: 3060 PG: 1984

1070 South Shuman Road  
Naples, Florida 34104  
(813) 267-5225  
Fax (813) 267-2173



*Burns & Burns, Inc.*

NOT RECORDED

**FALLING WATERS BEACH RESORT  
MASTER ASSOCIATION**

**LEGAL DESCRIPTION**

Commencing at the East 1/4 corner of Section 3, Township 31 South, Range 28 East, Collier County, Florida; thence run South 00° 41' 31" West for 629.67 feet; thence run North 54° 20' 16" West on a line 400 feet North of and parallel with the North right-of-way line of Florida State Road 90, (U.S. 41) for a distance of 608.25 feet to the East line of a Outfall Drainage Easement as recorded in Official Records Book 83, Page 123 of the Public Records of Collier County, Florida and the Point of Beginning; thence continue along said line North 54° 20' 16" West 1323.20 feet; thence South 35° 39' 44" West 400.00 feet to the Northerly right-of-way line of Florida State Road 90, (U.S. 41); thence North 34° 20' 16" West 40.00 feet along said right-of-way; thence North 35° 39' 44" East 400.00 feet; thence North 32° 05' 39" West 37.27 feet; thence North 54° 20' 16" West 106.20 feet; thence South 35° 39' 44" West 14.00 feet; thence North 54° 20' 16" West 1999.16 feet; thence North 35° 40' 08" West 220.00 feet; thence North 54° 20' 16" West 189.00 feet to the Easterly right-of-way line of State Road 5-951; thence run North 35° 40' 08" East 100.00 feet along said right-of-way line; thence South 54° 20' 16" East 189.00 feet; thence North 35° 40' 08" East 600.00 feet; thence South 54° 20' 16" East 3249.77 feet to the Easterly line of said Outfall Easement; thence South 30° 16' 12" West 954.23 feet along said easement to the Point of beginning.


**LESS PARCEL 1**

Commencing at the East 1/4 corner of Section 3, Township 31 South, Range 28 East, Collier County, Florida; thence run South 00° 41' 31" West for 629.67 feet; thence run North 54° 20' 16" West on a line 400 feet North of and parallel with the North right-of-way line of Florida State Road 90, (U.S. 41) for a distance of 608.25 feet to the East line of a Outfall Drainage Easement as recorded in Official Records Book 83, Page 123 of the Public Records of Collier County, Florida; thence continue along said line North 54° 20' 16" West 3803.06 feet; thence North 35° 40' 08" West 129.20 feet; thence South 34° 19' 32" East 30.99 feet to the Point of Beginning;

thence North 35° 39' 47" East 342.00 feet to a point on a curve:  
 thence 314.16 feet along the arc of a tangential curve concave to  
 the South, having a radius of 200 feet, central angle of 89° 59'  
 37" and subtended by a chord which bears North 80° 39' 46"  
 East for 282.84 feet:  
 thence South 54° 20' 16" East 212.49 feet to a point on a curve:  
 thence 77.91 feet along the arc of a tangential curve concave to  
 the Southwest, having a radius of 188 feet, central angle of 23°  
 44' 44" and subtended by a chord which bears South 42° 27' 84" East  
 for 77.36 feet:  
 thence South 30° 35' 32" East 231.07 feet to a point on a curve:  
 thence 299.03 feet along the arc of a tangential curve concave to  
 the Northeast having a radius of 362 feet, central angle of 47° 19'  
 54" and subtended by a chord which bears South 54° 13' 29" East for  
 290.62 feet:  
 thence South 77° 53' 26" East 234.08 feet to a point on a curve:  
 thence 77.39 feet along the arc of a tangential curve concave to  
 the South having a radius of 188 feet, a central angle of 23° 35'  
 10" and subtended by a chord which bears South 66° 07' 51" East for  
 77.85 feet:  
 thence South 54° 20' 16" East 336.20 feet to a point on a curve:  
 thence 104.72 feet along the arc of a tangential curve concave to  
 the West having a radius of 200 feet, a central angle of 30° 00'  
 00" and subtended by a chord which bears South 39° 20' 16" East for  
 103.53 feet:  
 thence South 24° 20' 16" East 66.92 feet to a point on a curve:  
 thence 203.22 feet along the arc of a tangential curve concave to  
 the Northeast having a radius of 320 feet, a central angle of 35°  
 56' 16" and subtended by a chord which bears South 42° 18' 24" East  
 for 199.91 feet:  
 thence South 60° 16' 32" East 304.38 feet to a point on a curve:  
 thence 118.48 feet along the arc of a tangential curve concave to  
 the Southwest having a radius of 200 feet, central angle of 33° 56'  
 27" and subtended by a chord which bears South 43° 10' 19" East for  
 118.75 feet:  
 thence South 26° 20' 08" East 191.70 feet to a point on a curve:  
 thence 159.10 feet along the arc of a tangential curve concave to  
 the Northeast having a radius of 174 feet, central angle of 82° 23'  
 27" and subtended by a chord which bears South 52° 31' 49" East for  
 153.62 feet:  
 thence South 70° 43' 32" East 175.99 feet to a point on a curve:  
 thence 115.08 feet along the arc of a tangential curve concave to  
 the Southwest having a radius of 130 feet, a central angle of 43°  
 57' 21" and subtended by a chord which bears South 56° 44' 52" East  
 for 112.28 feet:  
 thence South 34° 46' 11" East 79.75 feet to a point on a curve:  
 thence 145.95 feet along the arc of a tangential curve concave to  
 the West having a radius of 130 feet, a central angle of 58° 45'  
 00" and subtended by a chord which bears South 6° 55' 41" East for  
 140.26 feet:  
 thence South 20° 58' 49" West 202.46 feet to a point on a curve:  
 thence 62.03 feet along the arc of a tangential curve concave to  
 the Northwest having a radius of 200 feet, central angle of 17° 46'  
 13" and subtended by a chord which bears South 29° 51' 58" West for

61.78 feet:  
 thence South 38° 45' 02" West 129.37 feet to a point on a curve;  
 thence 129.98 feet along the arc of a tangential curve concave to  
 the North having a radius of 150 feet, central angle of 48° 06' 40"  
 and subtended by a chord which bears South 62° 48' 22" West for  
 122.29 feet;  
 thence South 86° 51' 42" West 119.63 feet to a point on a curve;  
 thence 101.88 feet along the arc of a tangential curve concave to  
 the North having a radius of 150 feet, central angle of 38° 48'  
 02", and subtended by a chord which bears North 73° 44' 17" West  
 for 99.83 feet;  
 thence North 84° 20' 16" West 105.49 feet to a point on a curve;  
 thence 65.62 feet along the arc of a tangential curve concave to  
 the Northeast having a radius of 188 feet, central angle of 20° 00'  
 00" and subtended by a chord which bears North 44° 20' 16" West for  
 63.29 feet;  
 thence North 34° 20' 16" West 111.55 feet to a point on a curve;  
 thence 148.00 feet along the arc of a tangential curve concave to  
 the Southwest having a radius of 212 feet, central angle of 40° 00'  
 00" and subtended by a chord which bears North 54° 20' 16" West for  
 145.02 feet;  
 thence North 74° 20' 16" West 111.55 feet to a point on a curve;  
 thence 68.62 feet along the arc of a tangential curve concave to  
 the Northeast having a radius of 188 feet, central angle of 20° 00'  
 00" and subtended by a chord which bears North 54° 20' 16" West for  
 63.29 feet;  
 thence North 54° 20' 16" West 183.95 feet to a point on a curve;  
 thence 212.37 feet along the arc of a tangential curve concave to  
 the East having a radius of 338 feet, central angle of 36° 00' 00"  
 and subtended by a chord which bears North 36° 20' 16" West for  
 208.90 feet;  
 thence North 18° 20' 16" West 103.85 feet to a point on a curve;  
 thence 109.33 feet along the arc of a tangential curve concave to  
 the Southwest having a radius of 174 feet, central angle of 38° 00'  
 00", and subtended by a chord which bears North 36° 20' 16" West  
 for 107.34 feet;  
 thence North 84° 20' 16" West 111.00 feet to a point on a curve;  
 thence 109.64 feet along the arc of a tangential curve concave to  
 the South having a radius of 174.3 feet, central angle of 36° 00'  
 00" and subtended by a chord which bears North 72° 20' 16" West for  
 107.88 feet;  
 thence South 88° 39' 44" West 164.61 feet to a point on a curve;  
 thence 94.56 feet along the arc of a tangential curve concave to  
 the North having a radius of 150 feet, central angle of 36° 00' 00" ...  
 and subtended by a chord which bears North 72° 20' 16" West for  
 93.01 feet;  
 thence North 54° 20' 16" West 325.78 feet to a point on a curve;  
 thence 84.26 feet along the arc of a tangential curve concave to  
 the Northeast having a radius of 150 feet, central angle of 32° 11' 05"  
 and subtended by a chord which bears North 38° 14' 44" West for  
 83.16 feet to a point on a reverse curve;  
 thence 97.74 feet along the arc of a tangential curve concave to  
 the Southwest having a radius of 174 feet, central angle of 32° 11'  
 05" and subtended by a chord which bears North 38° 14' 44" West for

thence South 54° 20' 16" East 43.46 feet:  
 thence North 35° 39' 44" East 8.00 feet:  
 thence South 34° 20' 16" East 68.07 feet:  
 thence North 35° 39' 44" East 398.21 feet:  
 thence South 54° 20' 16" East 241.91 feet:  
 thence South 30° 35' 32" East 270.31 feet:  
 thence South 39° 01' 17" East 246.66 feet:  
 thence South 77° 55' 26" East 327.88 feet:  
 thence South 70° 55' 58" East 142.89 feet:  
 thence South 54° 20' 16" East 208.62 feet:  
 thence South 28° 57' 34" East 194.63 feet:  
 thence South 48° 30' 14" East 268.67 feet:  
 thence South 60° 16' 32" East 278.25 feet:  
 thence South 28° 20' 03" East 241.08 feet:  
 thence South 34° 20' 16" East 221.50 feet:  
 thence South 78° 51' 41" East 274.80 feet:  
 thence South 20° 58' 49" West 221.60 feet:  
 thence South 38° 45' 02" West 205.61 feet:  
 thence North 54° 20' 16" West 246.13 feet:  
 thence North 34° 20' 16" West 263.48 feet:  
 thence North 74° 20' 16" West 253.23 feet:  
 thence North 84° 20' 16" West 223.00 feet:  
 thence North 18° 20' 16" West 283.82 feet:  
 thence North 34° 20' 16" West 55.72 feet:  
 thence North 35° 39' 44" East 151.09 feet:  
 thence North 28° 06' 09" West 189.30 feet:  
 thence North 53° 34' 42" West 166.51 feet:  
 thence North 79° 42' 26" West 152.71 feet:  
 thence South 20° 48' 10" West 260.79 feet:  
 thence South 89° 39' 44" West 158.83 feet:  
 thence North 34° 20' 16" West 228.07 feet:  
 thence North 34° 20' 15" West 263.71 feet:  
 thence North 74° 20' 16" West 263.71 feet:  
 thence North 54° 20' 16" West 459.68 feet to the Point of  
 Beginning.

  
 DAVID M. BURNS, PLS  
 Fl. Cert. No. 4520

State of FLORIDA  
 County of COLLIER  
 I HEREBY CERTIFY THAT this is a true and  
 correct copy of a document recorded in  
 the OFFICIAL RECORDS of Collier County.  
 WITNESS my hand and official seal this  
 20th day of \_\_\_\_\_ 20\_\_  
 \_\_\_\_\_  
 CLERK OF CIRCUIT COURT