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September 6, 2006

Reply To:  
Naples  
Gregory W. Marler, Esq.  
gmarler@becker-poliakoff.com

Florida Department of State  
Amendment Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

Re: Baycrest Homeowners Association, Inc.  
Document No.: N94000000975

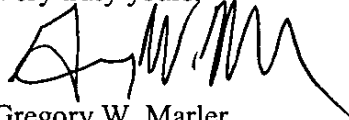
Dear Sir or Madam:

Enclosed please find Articles of Amendment to Articles of Incorporation for the above-referenced Corporation along with check number 000036 in the amount of \$35.00 to cover the cost of filing.

Please return a copy of the filed document to my attention. An extra copy of the document is enclosed herewith for your use.

Thank you for your attention to this matter

Very truly yours,



Gregory W. Marler

GWM/bsr  
Enclosures (as stated)

NAP\_DB: 34276\_1

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\* by appointment only

ARTICLES OF AMENDED AND RESTATED  
ARTICLES OF INCORPORATION

Pursuant to the provision of Section 617, Florida Statutes, the undersigned corporation adopts the following Articles of Amended and Restated Articles of Incorporation.

FIRST: The name of the corporation is Baycrest Homeowners Association, Inc.

SECOND: The attached Amended and Restated Articles of Incorporation were adopted by the membership.

THIRD: The attached Amended and Restated Articles of Incorporation were adopted by the required vote of the members on the 27<sup>th</sup> day of July, 2006.

FOURTH: The number of votes cast were sufficient for approval.

WITNESSES:  
(TWO)

BAYCREST HOMEOWNERS  
ASSOCIATION, INC.

Nancy Weidner  
Signature

Nancy Weidner  
Printed Name

Stacy D. Moore  
Signature

Stacy D. Moore  
Printed Name

BY: Keith Huffman  
Keith Huffman, President

Date: 8/29/06

(CORPORATE SEAL)

STATE OF Florida  
COUNTY OF LEE ) SS:

The foregoing instrument was acknowledged before me this 29 day of AUGUST 2006 by Keith Huffman as President of Baycrest Homeowners Association, Inc., a Florida Corporation, on behalf of the corporation. He is personally known to me or has produced (type of identification) \_\_\_\_\_ as identification and did take an oath.

Vicki W. Barrett  
Notary Public

Vicki W. Barrett  
Printed Name

My commission expires: 2/10/08



Vicki W. Barrett  
My Commission DD200530  
Expires February 10, 2008

**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
BAYCREST HOMEOWNERS ASSOCIATION, INC.**

These are the Amended and Restated Articles of Incorporation for Baycrest Homeowners Association, Inc., originally filed with the Florida Department of State the 25<sup>th</sup> day of February, 1994. Matters of only historical interest have been omitted. Amendments included have been added pursuant to Chapters 617 and 720, Florida Statutes.

1. **NAME.** The name of the corporation shall be Baycrest Homeowners Association, Inc. For convenience, the corporation shall be referred to in this instrument as the "Corporation", the Amended and Restated Declaration for Baycrest as "Declaration", these Articles of Incorporation as the "Articles", and the By-Laws of the Corporation as the "By-Laws".

2. **PURPOSE.** The purpose for which the Corporation is organized is to serve as a "Homeowners' Association" as described in Section 720.301, Florida Statutes, including but not limited to the power to operate, administer, and manage the "Common Open Space" in Baycrest in accordance with the Declaration and other Governing Documents, and to provide for the architectural control and the administration and enforcement of covenants and restrictions applicable to the Project.

3. **DEFINITIONS.** The terms used in these Articles shall have the same definitions and meaning as those set forth in the Declaration, unless herein provided to the contrary, or unless the context otherwise requires.

4. **POWERS.** The powers of the Corporation shall include and be governed by the following:

4.1 **General.** The Corporation shall have all of the common- law and statutory powers of a corporation not for profit under the Laws of Florida that are not in conflict with the provisions of the Declaration, these Articles, the By-Laws or prohibited by law.

4.2 **Enumeration.** The Corporation shall have all the powers and duties set forth in Chapters 617 and 720, Florida Statutes, as amended from time to time, except as they may be limited by the Declaration and as it may be amended from time to time, these Articles and as they may be amended from time to time, and the By-Laws and as they may be amended from time to time, including but not limited to the following:

4.2.1 To make and collect assessments and other charges against members as Owners of Homes or Lots within Baycrest, and to use the proceeds thereof in the exercise of its powers and duties.

**4.2.2** To buy, own, operate, lease, sell and trade both real and personal property as may be necessary or convenient in the administration of the Corporation.

**4.2.3** To maintain, repair, replace, reconstruct, add to, and operate the Corporation property and other property acquired or leased by the Corporation for use by Owners.

**4.2.4** To purchase insurance upon the Corporation's property and insurance for the protection of the Corporation, its officers, directors, and Members.

**4.2.5** To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Corporation property and for the health, comfort, safety and welfare of the Owners.

**4.2.6** To enforce by legal means the provisions of the Declaration, these Articles, the By-Laws, and the rules and regulations.

**4.2.7** To contract for the management of the Corporation and any facilities used by the Owners, and to delegate to the party with whom such contract has been entered into all of the powers and duties of the Corporation except those which require specific approval of the Board of Directors or the membership of the Corporation.

**4.2.8** To employ personnel to perform the services required for proper operation of the Corporation.

**4.3 Corporation property.** All funds and the titles of all properties acquired by the Corporation and their proceeds shall be held for the benefit and use of the Members in accordance with the provisions of the Declaration, these Articles and the By-Laws.

**4.4 Distribution of income.** The Corporation shall make no distribution of income to its Members, directors or officers.

**4.5 Limitation.** The powers of the Corporation shall be subject to and shall be exercised in accordance with the provisions of the Declaration and the By-Laws.

**5. MEMBERS AND VOTING.** The qualification of Members, the manner of their admission to membership and voting by Members shall be as follows:

**5.1 Members.** The membership of the Corporation shall be comprised of the Owners of a Lot which is subject to assessment. Membership shall be established as follows:

**5.1.1 Owner Members.**

The Owner of every Lot shall become a Member upon recordation in the Public Records of Lee County, Florida, of an instrument establishing the ownership by said Owner of the Lot. Each such Owner shall notify this Corporation of said

recording within thirty (30) days thereof and shall transmit to the Corporation true copies of such instrument.

**5.2 Voting Rights.** The voting rights of the Members shall be as follows:

**5.2.1 Number of Votes.** Each Member shall be entitled to one vote for each Lot owned by such Member. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for a Lot owned by more than one (1) person shall be exercised as the Owners of such lot among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

**6. TERM OF EXISTENCE.** The Corporation shall have perpetual existence.

**7. OFFICERS.** The affairs of the Corporation shall be administered by the officers designated in the By-Laws. The officers shall be elected by the Board of Directors of the Corporation at its first meeting immediately following the annual meeting of the members of the Corporation and shall serve at the pleasure of the Board of Directors. The By-Laws may provide for the removal from office of officers, for filling vacancies, and for the duties of the officers.

**8. DIRECTORS.**

**8.1 Number and Qualification.** The property, business and affairs of the Corporation shall be managed by a board consisting of the number of directors determined by the By-Laws, but which shall consist of not less than five (5) nor more than seven (7) directors.

**8.2 Duties and powers.** All of the duties and powers of the Corporation existing under the Declaration, these Articles and the By-Laws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to members when such approval is specifically required.

**8.3 Election; removal.** Directors of the Corporation shall be elected at the annual meeting of the Members in the manner determined by the By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.

**9. INDEMNIFICATION.**

**9.1 Indemnity.** The Association shall indemnify any officer, Director, or committee member 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, officer, or committee member of the Association, against expenses (including attorney's fees and appellate attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, unless (i) a court of competent jurisdiction finally determines, after all appeals

have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (ii) such court also determines specifically that indemnification should be denied. 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, 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 Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. It is the intent of the membership of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to their officers, directors, and committee members as permitted by Florida law.

**9.2. Defense.** To the extent that a director, officer, or committee member of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 9.1 above, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees and appellate attorney's fees) actually and reasonably incurred by him in connection therewith.

**9.3 Advances.** Expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the affected Director, Officer, or committee member to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized by this Article 9.

**9.4. Miscellaneous.** The indemnification provided by this Article 9 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of members, or otherwise, and shall continue as to a person who has ceased to be a Director, officer, or committee member and shall inure to the benefit of the heirs and personal representatives of such person.

**9.5. Insurance.** The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, committee member, employee, or agent of the Association, or 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, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

**9.6. Amendment.** Anything to the contrary herein notwithstanding, the provisions of this Article may not be amended without the approval in writing of all persons whose interest would be adversely affected by such amendment.

**9.7. Delegation.** To the extent permitted by law, the powers and duties of the directors and officers may be delegated for the purpose of management.

10. **BY-LAWS.** The By-Laws of this Corporation may be altered, amended or replaced in the manner provided in the By-Laws.

11. **AMENDMENTS.** These Articles may be amended in the following manner:

11.1 **Method of proposal.** A resolution for the adoption of a proposed amendment may be proposed either by the President of the Association, a majority of the directors, or by not less than twenty-five percent (25%) of the Voting Interests of the Corporation.

11.2 **Notice.** The subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

11.3 **Adoption.** An amendment so proposed may be approved by two-thirds (2/3) of the Voting Interests of the Corporation, present, in person or by proxy, and voting at a duly noticed meeting of the Association at which a quorum is present. Amendments correcting errors, omissions or scrivener's errors may be executed by the officers of the Corporation, upon Board approval, without need for Corporation membership vote.

11.4 **Recording.** A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of the applicable Florida Statutes, and a copy certified by the Secretary of State shall be recorded in the Public Records of Lee County, Florida.

12. The Association may be dissolved with the assent given in writing and signed by the holders of not less than ninety (90%) percent of the total number of the members. 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 the purpose similar to those for which this Association was created. In the event dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes. Any action under this Article is subject to the procedures and requirements of Florida Statute 617.1402, et seq.

13. **REGISTERED OFFICE ADDRESS AND NAME OF REGISTERED AGENT.**

The registered office address and the name of the registered agent of the corporation shall be as determined by the Board of Directors from time to time.