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Prepared By and To Be Returned To:  
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**FIRST AMENDMENT TO TOWN CENTER DECLARATION  
FOR SUN CITY CENTER FT. MYERS**

THIS FIRST AMENDMENT TO TOWN CENTER DECLARATION FOR SUN CITY CENTER FT. MYERS ("First Amendment") is made by Bay Colony-Gateway, Inc., a Delaware corporation ("BCG").

**WITNESSETH:**

**WHEREAS**, the Town Center Declaration for Sun City Center Ft. Myers was recorded on December 7, 2001, in Official Records Book 3535, Page 4496, public records of Lee County, Florida, as amended and supplemented from time to time ("Declaration"); and

**WHEREAS**, BCG is the Declarant and Towne Center Owner under the Declaration; and

**WHEREAS**, BCG now desires to amend certain provisions of the Declaration in accordance with the provisions of Section 9.12 thereof, as more specifically described hereinafter;

**NOW, THEREFORE**, Declarant hereby states as follows:

1. The foregoing recitals are true and correct and are deemed incorporated herein as if fully stated hereinafter.

2. The title of the Declaration is hereby renamed from "Town Center Declaration for Sun City Center Ft. Myers" to "Town Center Declaration for Pelican Preserve."

3. Declarant hereby modifies the following sections of the Declaration as follows (additions are noted as double underline text, deletions as ~~strikethrough~~ text):

(a) The first recital paragraph of the Declaration is amended as follows:

**WHEREAS**, Declarant is the developer of a master planned residential community in Lee County, Florida, known as Pelican Preserve, formerly known as Sun City Center Ft. Myers ("Community") and within which Declarant has developed or plans to develop recreational amenities facilities known as the Town Center (as defined below) for use by the owners of the Community who upon the acceptance of ownership of a residential property therein will automatically become a User of the Town Center; and

(b) Section 1.1 of the Declaration is amended as follows:

1.1 "Community" or "Development" or "Pelican Preserve Sun City Center Ft. Myers" or "Pelican Preserve Sun City Center Ft. Myers Development" means the master planned community development project known as Pelican Preserve, formerly known as Sun City Center Ft. Myers. As the Community is progressively developed, the Residential Property to which these Town Center Covenants apply shall also progressively increase in land area. The Development is presently contemplated to

contain approximately 2,500 residential Homes, more or less. Each Owner, by virtue of taking title to a portion of the Residential Property, consents and understands that the foregoing estimate of the number of Homes within the Community is only an estimate, and Declarant shall have the right, authority and power to create more or less Homes in the Community than as estimated above.

(c) Section 1.2 of the Declaration is amended as follows:

1.2 "Community Association" means the Pelican Preserve Sun City Center Ft. Myers Community Association, Inc., a Florida not-for-profit corporation, which is the entity created to administer certain common functions for Pelican Preserve Sun City Center Ft. Myers pursuant to the Community Declaration.

(d) Section 3.2.1 of the Declaration is amended as follows:

3.2.1 develop, construct and reconstruct, in whole or in part, the Town Center Facilities within the Pelican Preserve Sun City Center Ft. Myers Development, and make any additions, alterations, improvements, or changes thereto;

(e) Section 3.2.2 of the Declaration is amended as follows:

3.2.2 maintain leasing and/or sales offices (for sales and resales of residential properties within the Pelican Preserve Sun City Center Ft. Myers Development or other properties being developed by the Declarant or Town Center Owner), general offices, and construction operations on the Town Center Property, including, without limitation, displays, counters, meeting rooms, and facilities for the sales and re-sales of residential properties;

(f) Section 3.2.4 of the Declaration is amended as follows:

3.2.4 temporarily deposit, dump or accumulate materials, trash, refuse and rubbish on the Town Center Property in connection with the development or construction of any of the Town Center Facilities or any improvements located within the Pelican Preserve Sun City Center Ft. Myers Development;

(g) Section 3.2.5 of the Declaration is amended as follows:

3.2.5 post, display, inscribe or affix to the exterior of the Town Center Facilities and on the Town Center Property, signs and other materials used in developing, constructing, selling, or promoting the sale of portions of the Pelican Preserve Sun City Center Ft. Myers Development and other properties being developed by the Declarant;

(h) Section 9.1 of the Declaration is amended as follows:

9.1 Easement for Public Service Use and Public Utilities and Construction. Declarant hereby reserves and covenants for itself and its successors and assigns easements of ingress and egress over and across the Town Center Property for public services (including, without limitation, the right of the police and fire department to enter upon any part of the Town Center Property for the purpose of rendering their respective services) and for agents and employees of utility companies servicing the Pelican Preserve Sun City Center Ft. Myers Development.

4. Except as modified by this Amendment, the Declaration remains valid and in full force and effect. In the event of a conflict between the provisions of this First Amendment and the provisions of the Declaration prior to the effective date hereof, the provisions of this First Amendment shall control.

IN WITNESS WHEREOF, Declarant has caused this Amendment to be executed by its authorized officer and affixed its corporate seal as of this 25<sup>TH</sup> day of FEB, 2004.

WITNESSES:

Bay Colony-Gateway, Inc., a Delaware corporation

Name: Laura Koen  
Print Name: Laura Koen

By: [Signature]  
Tim Oak, Vice President

Name: Catherine Yancovitz  
Print Name: Catherine Yancovitz

(Corporate Seal)

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 25<sup>TH</sup> day of February 2004, by Tim Oak, as Vice President of Bay Colony-Gateway, Inc., a Delaware corporation, on behalf of the corporation. He is personally known to me.

My Commission Expires: 09/05  
(AFFIX NOTARY SEAL)

[Signature]  
(Signature)

Name: Stacy Chernesky  
(Legibly Printed or Typed)  
Notary Public, State of Florida

DD 048223  
(Commission Number, if any)

