

This Instrument Prepared By:

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**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS OF CELEBRATION CAPE COMMUNITY**

The Members of the Celebration Cape Community Association, Inc., a Florida not for profit corporation (the "Association") have duly adopted this Amended and Restated Declaration of Covenants, Restrictions, Conditions and Easements of Celebration Cape Community (the "Declaration") to amend, restate and replace that certain Declaration of Restrictions and Protective Covenants for Celebration Cape Community recorded as Instrument Number 2010000056195 the Official Records of Lee County, Florida (the "Original Declaration") in its entirety.

WITNESSETH:

This Declaration is executed and recorded pursuant to Article 7, Section 7.3 of the Original Declaration by the Members of the Association for the purpose of amending, restating and replacing the Original Declaration in its entirety as provided therein.

This Declaration was approved by Members of the Association holding more than two-thirds (2/3rds) of the voting interest present in person or by proxy in the Association at a duly noticed meeting on July 2, 2013.

The Members and Celebration Cape, LLC. in its capacity as the Declarant each hereby desire to amend and restate the Original Declaration in its entirety as set forth herein.

Now, Therefore, the Association and the Declarant hereby declare that the property described in **Exhibit "A"** shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with subject to the protective covenants, conditions, restrictions, reservations, easements, liens and charges as hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability and plan of development for the same. Said covenants, conditions, restrictions, reservations, easements, liens and charges shall run with the real property described in **Exhibit "A"**, and shall be binding upon all parties having and/or acquiring any right, title or interest in said property or any portion thereof, and shall inure to the benefit of each and every person or party, from time to time, owning or holding an interest in said property.

ARTICLE I

DEFINITIONS

The following words and terms when used in this Declaration or any supplemental declaration hereto or any amendment thereto (unless the context shall clearly indicate otherwise) shall have the following meanings:

Section 1. “Articles” mean and refer to the Articles of Incorporation of the Celebration Cape Community Association, Inc., a not-for-profit Florida corporation, attached hereto as **Exhibit “B”**, and all exhibits which are attached thereto and made a part thereof, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms thereof.

Section 2. “Association” means the Celebration Cape Community Association, Inc., a not-for-profit Florida corporation, its successors and assigns.

Section 3. “Builder” means any person or entity that purchases more than one Lot from the Declarant or any other third party for the purpose of constructing Homes on the Lots owned by such person or entity and conveying constructed Homes to a third party purchaser. The term Builder shall not refer to any home builder constructing a Home on a Lot owned by another party or for the owner.

Section 4. “By-Laws” mean the By-Laws of Celebration Cape Community Association, Inc., attached hereto as **Exhibit “B-1”** and all exhibits attached thereto and made a part thereof, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms thereof.

Section 5. “Common Area” is the property owned by or dedicated to the Association for the common use and enjoyment of the Members and all improvements constructed thereon and such other property as determined by Declarant, in its sole and absolute discretion, which may include rights of way, entrance features and gates, recreational facilities and surface water management systems.

Section 6. “County” shall mean Lee County, Florida.

Section 7. “Declarant” as used in this Declaration means Celebration Cape, LLC, a Florida limited liability company, or any successor of Declarant who may be assigned all or a part of the rights and obligations of Declarant pursuant to a written assignment executed by Declarant and recorded among the Public Records of Lee County, Florida. If Declarant assigns only a portion of its rights and obligations as Declarant hereunder to an assignee, then the term Declarant as used in this Declaration shall mean such assignee only when necessary to give such assignee the rights and obligations of Declarant hereunder which were assigned to such assignee to the same extent as if such assignee had been the original Declarant, and said assignee shall not have any of the rights and obligations of Declarant hereunder which were not specifically assigned to such assignee.

Section 8. “Declaration” means this instrument, together with the Exhibits attached hereto and made a part hereof, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms hereof.

Section 9. “Home” is an attached single family dwelling constructed upon and including a Lot.

Section 10. “Institutional First Mortgage” is a mortgage executed in favor of an Institutional First Mortgagee, which mortgage is a first and prior mortgage encumbering a Home.

Section 11. “Institutional First Mortgagee” is a bank, federal savings bank, and loan association, any insurance company, pension fund, real estate trust, Federal National Mortgage Association or its assigns, Federal Home Loan Mortgage Company or its assigns, or any other party engaged in the business of mortgage financing, which owns or holds a first and prior mortgage encumbering a Home, and shall include any corporate subsidiary of such entity.

Section 12. “Lot” is a designated lot within the property described on the Plat or any property annexed thereto and becoming a part of the Property conveyed or to be conveyed to an Owner upon which there has been constructed or will be constructed a Home.

Section 13. “Member” is every person or entity who is a Member in the Association.

Section 14. “Owner” is the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those parties having such interest merely as security for the performance of any obligation.

Section 15. “Plat” is the Plat of the Property (known as Pinewood Lakes Subdivision) recorded as Instrument number 2005000122587 in the Public Records of Lee County, Florida, as the same may be amended from time to time.

Section 16. “Property” is the property described in Exhibit “A”, and such additions thereto as may hereafter be brought within the jurisdiction of the Association and subject to the terms of this Declaration.

Section 17. “Rules” are collectively the rules and regulations which the Board of Directors of the Association may promulgate or impose and thereafter modify, alter, amend, rescind and augment any of the same with respect to the use, operation, and enjoyment of the Property, though excluding the Common Area, and any improvements located thereon.

Section 18. “Celebration Cape” or “Community” means the planned community planned for development upon the property described in Exhibit “A” or any property annexed as provided herein; the said being within Lee County, Florida.

The foregoing definitions shall be applicable to this Declaration and to any supplemental declaration hereto or any amendment to this Declaration, unless otherwise expressly provided herein or therein.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Legal Description. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the County, and is the property described in **Exhibit "A"**, and such additions as may hereafter be brought within the jurisdiction of the Association and subject to the terms of this Declaration, less the portions thereof dedicated and/or conveyed to other entities.

Section 2. Application of Declaration. The Property shall be held, transferred, sold, conveyed and occupied subject to the terms and conditions of this Declaration, and any and all supplements and lawful amendments hereto and any and all supplements and lawful amendments thereto. By receipt of delivery of a deed to any of the Property or other instrument evidencing ownership, whether or not it shall be so expressed in any such deed or other conveyance or adjudication, each Owner hereby agrees to abide by and accept title to such portion of the Property and all terms and provisions of this Declaration. The filing of this Declaration and subjecting the Property to the covenants, conditions, restrictions, reservations, easements, liens and charges contained herein shall not be construed in any way as inhibiting or prohibiting the Declarant from conveying the Lots or improvements within the Property to third parties free and clear of any covenants, conditions, restrictions, reservations, easements, liens and charges, except for those specifically provided for in this Declaration. Lots so conveyed by the Declarant to third parties shall be used and held by said third parties in accordance with this Declaration.

Section 3. Additional Property. Additional property may become subject to this Declaration or be withdrawn from the terms of this Declaration in the following manner:

(a) Annexation With Approval of Class "A" Membership. Subject to the consent of the owner thereof, after the expiration of the Class B Member, the Association may annex additional real property to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of not less than sixty-seven (67%) percent of the Class "A" Members of the Association. Annexation shall be accomplished by filing of record in the public records of the County, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by an authorized officer of the Association, and by the owner of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of the Bylaws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section and to ascertain the presence of a quorum at such meeting.

(b) Acquisition of Additional Common Area. Declarant may convey to the Association additional real property, or any interest therein, improved or unimproved, and upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be maintained by the Association at its expense as a Common Area for the benefit of all of its Members.

(c) Amendment. This Article II, Section 3 shall not be amended without the prior written consent of Declarant, so long as the Declarant holds Lots or Units for sale in the ordinary course of business.

ARTICLE III

MEMBERSHIP

Section 1. Membership. Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject to the covenants, conditions, restrictions, reservations, easements, liens and charges, of this Declaration, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership for each Lot owned. Membership shall be appurtenant to a Lot and may not be separated from ownership of the Lot. Ownership of a Lot shall be the sole qualification for membership. The Owner of record of each Lot shall be subject to assessment by the Association, as hereinafter provided, and shall be subject to enforcement by the Association in accordance with the terms and provisions of this Declaration.

ARTICLE IV

VOTING RIGHTS

Section 1. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be those Owners defined in Article III with the exception of the Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Article III. When more than one (1) person or entity holds such interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant, its successors and assigns. The Class B member shall be entitled to three (3) votes for each Class A Member vote, provided that the Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

- (a) Ninety (90%) percent of the Lots have been conveyed to third-party purchasers;
- (b) Ten (10) years from the date of recording this Declaration; or
- (c) Thirty (30) days after Declarant elects to terminate the Class B Membership.

ARTICLE V

PROPERTY RIGHTS

Section 1. Membership Easements of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the non-exclusive use of the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Area, and in aid thereof to mortgage said Common Area and the rights of such mortgagee in said Common Area shall be subordinate to the rights of the Owners hereunder; the right to mortgage the Common Area provided herein shall not become effective until a Home has been constructed upon each Lot within the Property and each Lot has been conveyed from the Declarant to a purchaser. No such rights to mortgage shall be effective unless an instrument shall be signed by two-thirds (2/3) of the Members other than the Declarant.

(b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes, and subject to such conditions as may be agreed to by the Members, or to mortgage all or any part of the Common Area. No such dedication, transfer or mortgage, shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3rds) of the votes of the Class A membership and two-thirds (2/3rds) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than thirty (30) days nor more than sixty (60) days in advance of the duly called meeting at which the vote on such dedication or transfer is held;

(c) The right of the Association to establish, from time to time, certain easements over the Common Area for utilities, broadband communications, cable television and other common services purposes;

(d) The right of the Association to charge reasonable fees for the use of designated facilities (if any) on the Common Area;

(e) Easements referred to in Article X hereof;

(f) The right to the use and enjoyment of the Common Area and facilities thereon shall extend to all Members and their family, tenants, contract purchasers and invited guests, provided there is delegation of the right of enjoyment in accordance with the By-Laws and subject to regulation from time to time by the Association in its Rules;

(g) Access to certain Common Area within the Property may not be obtained from an Owner's or Member's Lot or other Common Area or publicly dedicated streets or properties. Thus, to obtain access to certain Common Area for which access can not be obtained from the Owner's or Member's Lot, other Common Area or publicly dedicated streets or properties, the Owner or Member shall need to obtain the permission of a Lot Owner whose Lot is contiguous to said Common Area. The fact that a Member or Owner shall not have access to

certain Common Area from his or her Lot, Common Area or publicly dedicated streets or properties does not allow an Owner to escape liability for assessments provided for in Article VI of this Declaration; and

- (h) The other provisions of this Declaration, the Articles and By-Laws.

Section 2. Common Area.

(a) Ownership. The Declarant hereby represents that the fee simple title to the Common Area has been or will be conveyed to the Association and the Association shall maintain the Common Area. The Association shall be obligated to accept conveyance of any Common Areas from the Declarant as deemed necessary or advisable by Declarant.

(b) Maintenance. The Association shall be responsible for the maintenance of the Common Areas in a continuous and satisfactory manner in good order, condition, and repair. In addition, the Association shall replace as scheduled any and all improvements situated on the Common Areas (upon completion of construction by Declarant), including, but not limited to, all landscaping, paving, drainage structures, street lighting fixtures, signs, irrigation systems, sidewalks, and other structures, including guard gates and entry features, but excepting any public utilities. The Association shall be authorized, but not required, to provide other services, such as installation and maintenance of security gates (manned and/or unmanned), operation of a guardhouse, and emergency repairs and other work on Lots reasonably necessary for the proper maintenance and operation of the Community and shall have easement rights necessary to perform same. All work pursuant to this Section and all expenses hereunder shall be paid for by the Association through assessments as provided in this Declaration; provided, however, that the cost of any maintenance, repair or replacement caused by the negligent conduct of an Owner or its guest, tenants or other invitees or by the failure of an Owner to comply with the lawfully adopted rules and regulations of the Association shall be levied as a Special Assessment against such Owner individually. No Owner may waive or otherwise escape liability for the assessments for such maintenance by non-use of the Common Areas or abandonment of his right to use the Common Areas.

(c) Rules and Regulations. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the Common Areas, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote. The Board of Directors shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided herein and in the Bylaws of the Association.

Section 3. Reserved Rights. Notwithstanding any provision herein to the contrary, the property rights under this Article V shall be subject to:

(a) Easements of record on the date hereof and any easements which may hereafter be granted by Declarant or a Builder over portion of the Community owned by such Builder to any public or private utilities or governmental bodies for the installation and maintenance of cable television, electrical and telephone conduit and lines, sewers or water

pipes, or any other utilities or services to any Lots within the Property or any portion of the Common Area or such easements as Declarant or Builder may determine are necessary or beneficial for the maintenance or preservation of the Property;

(b) Each Builder shall have full rights of ingress and egress to and through, and over and about the Property, including all Common Areas, during the time the Builder is engaged in any construction or improvement work, sales, leasing or marketing of the Community on or within the Property, and such Builder shall further have an easement thereon for the purpose of storage of materials, vehicles, tools, equipment, etc., which are being utilized in such development or construction and for the use and maintenance of signs, banners, and the like being used in connection with the sale or promotion of the Property, or any portion thereof. Builders shall further have the right to operate and maintain models, sales centers and leasing offices and to operate and open gates and access to the Community to facilitate sales and marketing of the Community in Builder's reasonable discretion. No Owner, his guests, employees, servants, agents and invitees shall in any way interfere or hamper a Builder, its agents, servants, employees, invitees, successors or assigns, in connection with such construction, development, promotion or sales activity; and

(c) The Declarant shall also have the right to grant a Builder certain rights reserved hereunder to the Declarant for the purpose of constructing Homes in the Community by executing an assignment of rights in favor of the Builder to be kept in the official records of the Association.

Section 4. No Dedication to Public Use. Nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Common Area, except for access to and from and throughout the property described in the Plat or any additions thereto.

Section 5. Incorporation of Easements by Reference. Reference in the respective deeds of conveyance, or any mortgage or trust deeds or other evidence of obligation, to the easements and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees or trustees of said parcels as fully and completely as though said easements and covenants were fully recited and set forth in their entirety in such documents.

Section 6. Surface Water Management. It is acknowledged that the surface water management, drainage and storage system for the Property is one integrated system, and accordingly those portions contained within the Property shall be deemed Common Area and an easement is hereby created over the entire Property for the surface water drainage and storage, and for the installation and maintenance of the surface water management, drainage and storage system for the Property; provided, however that such easement shall be subject to improvements constructed within the Property as permitted by controlling governmental authorities from time to time. If pursuant to the permitting requirements of any governmental authority the surface water management system for the Property is required to provide drainage for any other property, such other property shall have an easement for drainage purposes into the surface water management system for the Property. The surface water

management, drainage, and storage system of the Property shall be developed, operated, and maintained in conformance with the requirements of, and any permits or approvals issued by the South Florida Water Management District ("WMD") and any other controlling governmental authority. Except as hereafter provided, the Association shall maintain as a regular expense the entire surface water management, drainage, and storage system for the Property, including but not limited to all lakes and canals, swale areas, retention areas, culverts, pipes, pumps, catch basins, and related appurtenances, and any littoral zones in any lakes or other waterway, regardless of whether or not same are natural or man-made within the Property or are owned by the Association. Such maintenance shall be performed in conformance with the requirements of any governmental authority, and an easement for such maintenance is hereby created. The Association will have the right, but not the obligation, to maintain any portion of the surface water management, drainage, and storage system for the Property which is owned and/or maintained by any controlling governmental authority, or which is outside of the Property. The Association will have the right to enter into agreements with any controlling governmental authority or any other property owner or association for the common maintenance of the surface water management, drainage, and storage system serving the Property and any other property. The Property shall be required to accept surface water drainage from any other property pursuant to the requirements of any controlling governmental authority and an easement for such drainage is hereby created, and in connection therewith the Association will have the right, but not the obligation, to maintain any portion of the surface water management system for such other property reasonably required in connection with the maintenance or operation of the surface water management system for the Property.

ARTICLE VI

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments to be Paid to the Association. The Declarant, for each Lot owned by it within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance (including any purchaser at a judicial sale), is deemed to covenant, which covenant shall run with the land and be binding on every Owner, and agrees to pay to the Association: (1) any regular assessments or charges (including payment of property taxes which may be assessed against Common Area or any personal property which may in the future be owned by the Association); and (2) any special assessments for improvements, or to fund any deficits between the amount collected for regular assessments in accordance with the annual budget and the amount determined necessary by the Association for the proper management and maintenance of the Common Area, together with other costs and/or expenses levied or imposed against the Association or property of the Association; and (3) any individual assessments or charges incurred by the Association on behalf of one or more Lots but not all Lots. All such assessments shall be fixed, established and collected from time to time as hereinafter provided. The regular, special and individual assessments, together with such interest thereon and costs of collection thereof, including attorney's fees, as hereinafter provided and any applicable late fee imposed by the Board of Directors of the Association, shall be a charge on the Property and shall be a ***continuing lien*** relating back to the date of recordation of the Original Declaration upon any Lot against which each such assessment is made, and said lien may be

enforced in the same manner in which mortgages are enforced. Each such assessment, together with interest, costs (including applicable late fees), and reasonable attorneys' fees for its collection, including attorneys' fees involved at all appellate levels and whether or not suit is instituted, shall also be the personal obligation of the person or entity who was the Owner of the Lot at the time when the assessment becomes due.

Section 2. Purpose of Assessments. The assessments to be levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Property and shall specifically include, but not limited to: payment of all water charges for the Lots and Common Area billed through the master water meter; any fees due under a bulk service agreement entered into on behalf of the Owners by the Association or Declarant; the maintenance of the Common Area; the payment of taxes and insurance for the Common Area; payment for the improvement and maintenance of the Common Area; and services and facilities related to the use and enjoyment of the Common Area. Special assessments shall be used to fund capital improvements, deficits in the collection of regular assessment to cover operating expenses of the Association, and other purposes deemed necessary by a majority vote of Owners of the Association as set forth in Section 4 hereof. Individual assessments shall be for the costs incurred by the Association which by nature are applicable only to one or more Lots, but less than all Lots. By way of example and not limitation, in the event an Owner fails to maintain their Lot in a manner required by the Governing Documents, the Association shall have the right, through its agents and employees, to enter upon the Lot and to repair, restore, and maintain the Lot and/or Home as required by the Governing Documents. The costs of any such repair, restoration and/or maintenance, plus the reasonable administrative expenses of the Association and any costs incurred in bringing a Lot and/or Home into compliance with the Governing Documents, shall be an Individual Assessment.

Section 3. Basis of Annual Assessments. Annual assessments shall be determined in accordance with the Articles of Incorporation and By-Laws of the Association taking into account current maintenance costs and future needs of the Association. Each Owner acknowledges the Association is responsible for the repair and maintenance of capital improvements that may result in a Special Assessment if reserves are not being collected. Reserve accounts were not initially provided for or funded by the Declarant, however, the Members of the Association may elect to collect reserves after the expiration of the Class B Membership upon the affirmative approval of a majority of the total voting interests of the Association obtained by a vote of the Members at a duly called meeting of the membership or by the written consent of a majority of the total voting interests of the Association. The approval action of the membership must state that reserve accounts shall be provided for in the budget and must designate the components for which the reserve accounts are to be established. Upon approval by the membership, the Board shall include the required reserve accounts in the budget in the next fiscal year following the approval and each year thereafter. Once reserves are established as provided in this subsection or as initially set up by the Declarant, the reserve accounts must be funded or maintained or have their funding waived in the manner provided by Chapter 720, Florida Statutes.

Section 4. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or quarterly basis or as determined by the Board of Directors. Payments of all assessments will be made directly to the

Association or its designated management company and in no instance shall any mortgagees have the obligation to collect assessments.

Section 5. Special Assessment for Capital Improvements. In addition to the annual assessment authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, PROVIDED that any such assessments shall have the assent of a majority of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than 15 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

Section 6. Quorum for Any Action Authorized Under Section 5. At each meeting called, as provided in Section 5 hereof, the presence of the meeting of Members or of proxies entitled to cast thirty percent (30%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth in Section 5 and the required quorum at any such subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall be due and payable from all Lot Owners allocated to the Lot Owners in equal shares upon the acquisition of a Lot, including those Lots Owned by the Declarant or a Builder. Each Lot's share shall be 1/57th per Lot. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto together with the due date of such assessments established by the Board of Directors. Assessment shall be payable by Owners monthly in advance on the first day of each month if paid monthly or the first day of January, April, July and October if paid quarterly as determined by the Board. The Board of Directors, if necessary to insure cash flow, may institute reasonable late payment fees for monthly payment of the annual assessment. The Association shall, in accordance with Florida Law and upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge, not to exceed \$100 per request, may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within fifteen (15) days (or such other period of time established by the Board) after the due date, an administrative late fee of the greater of Twenty-Five and no/100 Dollars (\$25.00) or 5% of the amount of the installment that is past due, together with interest in an amount equal to the maximum rate per annum allowable by law beginning from the due date until paid in full may be levied. The Association, acting through its Board of Directors, may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot to which the

assessment is levied, and interest, costs and reasonable attorneys' fees, including at all appellate levels and whether or not suit is instituted, in collection or enforcement shall be added to the amount of such assessment. Additionally, the Board of Directors of the Association may at its discretion accelerate the Assessments then due from a delinquent Owner for the next twelve (12) months. The Association may also notify any mortgagees or lenders of Owner, any co-borrowers and/or guarantor(s) without recourse to Declarant and/or the Association of delinquencies in the payment of Assessments. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his or her Lot. All payments on accounts shall be first applied to fines levied in accordance with the terms of the Declaration, interest accrued by the Association, then to any administrative late fees, then to collection costs and attorney fees, and then to the delinquent Assessments. The allocation of payments described herein shall apply notwithstanding any restrictive endorsement, designation or instruction placed on or accompanying a payment. Additionally, if a Home is occupied by a Lessee and the Owner is delinquent in the payment of Assessments, the Association may demand from the Lessee payment to the Association of all monetary obligations, including without limitation, Assessments due from the Owner to the Association. So long as the Owner remains delinquent, future rent payments due to the Owner may be collected by the Association and shall be credited to the monetary obligations of the Owner to the Association. If within fourteen (14) days from written demand of the Association, the Lessee provides the Association with written evidence of making prepaid rent payments, the Lessee shall receive credit for the prepaid rent for the applicable period of such prepaid rent.

Section 9. Special Assessment Against a Particular Owner of Lot. In the event an Owner of any Lot in the Property shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by a majority of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot, and the exterior of the buildings and any other improvements erected thereon. The costs of such exterior maintenance to which such Lot is subject; and said assessment shall be enforced in the same manner as provided for in Section 8.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be superior to all other liens except tax liens and the liens of any bona fide Institutional First Mortgage to an Institutional First Mortgagee recorded prior to any lien for assessments by the Association; provided, however, that said mortgage liens are first liens against the property encumbered thereby, subject only to tax liens, and secure indebtednesses payable in monthly, quarterly or annual payments over a period of not less than ten (10) years.

Section 11. Exempt Property. The following Property subject to this Declaration shall be exempt from the assessments created herein: (a) any portion of the Property dedicated to and accepted by a local public authority; (b) the Common Area; (c) any portion of the Property which is designated and/or reserved for easements; and (d) any portion of the Property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Florida; however, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 12. Surface Water Management System. The Association is responsible for assessing and collecting fees for the operation, maintenance, and, if necessary, replacement of the surface water management system which is part of the Common Area. Fees shall be assessed and collected through annual assessments or other assessment, if necessary.

ARTICLE VII

CAPITAL CONTRIBUTION

Section 1. Capital Contribution on Sale By Declarant or Builder. At the time of the closing of a Home by the Declarant (unless the sale is to a Builder, in which case the working capital contribution shall be due upon the sale from the Builder) or a Builder, each purchaser shall pay to the Association the sum of \$350.00 as the amount of working capital contribution. These monies (hereinafter called "**Capital Contribution**") shall be the Association's property, and shall be held by the Association through its Board of Directors, pursuant to the powers described in the Articles and By-Laws. The Capital Contribution shall be deemed ordinary association income and need not be separated from or held or applied differently than assessments. No refund of a Capital Contribution will be made on re-sale.

ARTICLE VIII

ARCHITECTURAL CONTROL

Section 1. Review of Proposed Construction. Subject to Section 2 below, no improvement or alteration of any kind, including, but not limited to, a fence, wall or other addition, structure, or equipment (including landscaping, antennas, awnings, and shutters) shall be installed, painted, erected, removed or maintained within the Property, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to, and approved in writing by, a majority of the Architectural Review Board ("ARB") of the Association. The ARB of the Association shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Property and that the appearance of any improvement or other structure affected thereby will be in harmony with surrounding structures and improvements and is otherwise desirable. The ARB of the Association may condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The ARB of the Association may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The ARB of the Association may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the ARB of the Association of any required plans and specifications, the ARB of the Association may postpone review of any plans submitted for approval. The ARB of the Association shall have forty-five (45) days after delivery of all required materials to approve or reject any such plans. If an Owner's plans are not approved within such 45-days of complete submittal, said plans shall be deemed approved. All changes and alterations shall be subject independently to all applicable

governmental laws, statutes, ordinances, rules, regulations, orders and decrees. Any alteration or modification to the location and/or placement of exterior walls of any Home shall be further conditioned on compliance with the County ordinances and the obtaining of applicable governmental approvals, if any.

Section 2. No Waiver of Future Approvals. The approval of the ARB of the Association of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ARB of the Association, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whether subsequently or additionally submitted for approval or consent.

Section 3. Liability of the ARB of the Association. No member of the ARB of the Association (or Declarant) shall be liable to any Owner or other person by reason of mistake in judgment, failure to point out deficiencies in plans, or any other act or omission in connection with the approval of any plans. Any Owner submitting plans hereunder by the submitting of same, agrees (i) not to seek any damages or make any claim arising out of approval of plans hereunder, and (ii) to indemnify and hold the ARB of the Association, the Association and Declarant harmless from any cost, claim, damage, expense or liability whatsoever, including attorneys' fees and costs at all tribunal and appellate levels (and whether or not suit is instituted), arising out of the approval of any plans regardless of the negligence of the committee members, their representatives, or appointing entity.

Section 4. Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

(a) Upon the completion of any work for which approved plans are required hereunder the applicant for such approval ("**Applicant**") shall give written notice of completion to the ARB of the Association.

(b) Within thirty (30) days thereafter, the ARB of the Association (or its duly authorized representative) may inspect such completed work. If the ARB of the Association finds that such work was not affected in substantial compliance with the approved plans, it shall notify the Applicant in writing of such noncompliance within such thirty (30) day period, specifying the particulars of noncompliance, and shall require the Applicant to remedy the same.

(c) If an Applicant is notified of any noncompliance, the Applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If Applicant does not comply with the ARB ruling within such period, the Board, at its option, may either remove the noncomplying improvement or remedy the noncompliance (an easement therefore being hereby created), and Applicant shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. This amount, together with interest thereon at the rate of eighteen (18%) percent per annum from the date the noncompliance was to have been remedied or removed, the maximum late fee allowed under Florida Statutes for each month that a violation exists if payment is not made within thirty (30) days after announcement, and all costs and reasonable attorneys' fees incurred by the Association in collection, enforcement or abatement, as appropriate (including attorneys' fees

incurred at all appellate levels and whether or not suit is instituted) shall be a personal obligation of Owner and shall not pass to the successors in title of Owner unless expressly assumed by such successors. Such amount (including interest, costs, late fees and attorneys' fees as provided above) shall also be a *continuing lien* and run with the land on the Owner's Property if not paid within thirty (30) days after notice enforceable in the same manner in which mortgages are enforced by foreclosure, or by bringing an action at law or equity against the Owner.

(d) If for any reason the ARB of the Association fails to notify the Applicant of any noncompliance within forty-five (45) days after receipt of written notice of completion from the Applicant, the improvement shall be deemed to have been made in accordance with the approved plans.

Section 5. Variances. The ARB of the Association may authorize variances from compliance with any of the architectural provisions of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variance must be evidenced in writing and must be signed by at least two (2) members of the ARB of the Association. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of the Lot and Home, including, but not limited to, zoning ordinances and lot setback lines or requirements imposed by any governmental or municipal authority.

Section 6. Architectural Control Committee. The Board of Directors of the Association shall assign all of its responsibilities under Article VIII to the Architectural Review Board to be appointed by the Board of Directors of the Association (the "ARB"). During the any period of time a Builder who has acquired more than 10% of the Lots in the Community is constructing Homes for sale to third party purchasers, such Builder shall be entitled to appoint one member of the ARB and the other members shall be appointed by the Board. If the Declarant and Builders do not have any rights to appoint members of the ARB, the Board of Directors may act as the ARB for all purposes under this Section.

Section 7. Declarant's Exemption. Notwithstanding anything to the contrary, this Article does not apply to the Declarant or any Builder who acquires more than 10% of the Lots in the Community and is constructing Homes for sale to third party purchasers.

ARTICLE IX

USE RESTRICTIONS

Section 1. No Lot shall be used except for residential purposes. No building shall be erected altered, placed or permitted to remain on any Lot other than a Home and any structures approved by the ARB.

Section 2. No structure of a temporary character, trailer, basement, tent, shack, barn, shed or other out-building shall be used on any Lot at any time as a residence or appendage to such residence, either temporary or permanent, except for temporary construction trailer of Declarant.

Section 3. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood within the Plat, or any matter which affects the health, safety or welfare of the owners or occupants of the Property, in the Association's reasonable discretion.

Section 4. No livestock or poultry shall be kept, maintained, or bred in any Home or elsewhere within the Property, except for fish in an aquarium and birds in cages maintained in the interior of the Home and not more than a total of three (3) commonly accepted household pets on a permanent basis, including domestic dogs (other than pit bull dogs or other dogs which in the reasonable determination of the Board of Directors are determined to be a threat to the safety of the occupants of the Property which shall not be allowed under any circumstances in the Property) or domestic cats shall be permitted to be kept in a Home or Lot, provided such animals are not kept, bred or raised for commercial purposes. Notwithstanding the foregoing, the Board of Directors shall specifically have the power to either permit additional domestic dogs or cats to be kept as pets by an Owner if in the determination of the Board such pets shall not cause or be deemed by the Board of Directors to constitute a nuisance to any other Owner in the determination of the Board of Directors. Each person bringing or keeping a pet within the Property shall be absolutely liable to the Association, other Owners and their invitees for any damage to persons or property caused by any pet brought upon or kept upon the Property and it shall be the duty and responsibility of each such Owner to clean up after such animals which have deposited droppings or otherwise used any portion of the Property or public street abutting or visible from the Property. Animals belonging to Owners or invitees of any Owner must be kept within an enclosure or, on a leash held by a person capable of controlling the animal. All animals shall be contained within an Owners' Lot and shall not be permitted to roam free in the Community or left unattended for any extended period of time causing nuisance to other Owners or residents. The Association shall have the right to promulgate Rules and Regulations relating to animals and the right to restrict or require removal any such animals determined by the Board to constitute a nuisance.

Section 5. During the time period Declarant owns any Lot within the Property, no sign of any kind shall be displayed to the public view on any Lot, except signs used by the Declarant to advertise the Property during the construction and sale of Homes. Once the Declarant has conveyed all Lots it owns within the Property, one sign not larger than 3" x 5" may be displayed to advertise that the property is for sale or rent which sign is to be placed on one ground floor window or one second story window.

Section 6. No Lot shall be used or maintained as a dumping ground for rubbish. All trash and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon. Trash, garbage or other waste shall be kept in sanitary, covered containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. In no event shall such equipment and/or containers be visible from the Common Area streets, from neighboring Property or within property contained in the Plat, except for a

reasonable time immediately prior to and after scheduled trash collection, and in all events in compliance with the County Code.

Section 7. No garments, rugs, towels or blankets or any other materials may be hung, exposed or dusted from the windows or from the front facade of any Home. Further, unless otherwise specifically prohibited by applicable local, State or Federal law, no outside clotheslines or other facilities for drying or airing clothes shall be erected in the front yard, side yard or back yard of any Home. All personal property of Owners or other occupants shall be stored inside; provided, however, patio furniture or other personal property which is specifically for the use and enjoyment of designated outdoor areas of the Home shall be permitted.

Section 8. There shall be no parking on any portion of any sidewalk which is not part of a designated driveway, grass or street within the Property. An Owner may park in the Home's garage or in the driveway on the Lot. Each Home shall be constructed with a 2 car garage and a paved driveway. Car covers are prohibited and license tags on all vehicles must be current. No vehicle which cannot operate on its own power shall remain in the Community for more than twenty four (24) hours, except in the garage of a Home. No repair or maintenance, except for emergency repairs of vehicles shall be made unless in the garage of a Home. No vehicles shall be stored on blocks. No tarpaulin covers on vehicles shall be permitted anywhere within the public view. Any trailer, commercial vehicle, recreational vehicle, boat, rowboat, canoe, jet ski or boat trailer shall not be permitted to be parked outside of an enclosed garage. This restriction shall not be deemed to limit service vehicles whose purpose is to perform maintenance and delivery service to the Lot Owners or the Association during normal working hours or for work performed for the Declarant or the Association which are necessary in the development, maintenance or management of the Association. The term "commercial vehicle" includes trucks and vehicular equipment or other vehicles which are used or which are ordinarily intended to be used for commercial purposes or which contain materials regularly used in trade or business. No vehicles displaying commercial advertising shall be parked within the public view for an extended period of time. Automobiles issued by the County or other governmental entity (i.e., police cars), such automobile shall not be deemed to be a commercial vehicle and may be parked in the garage or driveway of the Lot. No vehicle shall be used as a domicile or residence either temporarily or permanently. No all terrain vehicles (ATVs), golf carts, scooters or mini motorcycles are permitted at any time on any paved surfaces forming a part of the Common Areas. Notwithstanding any other provision in this Declaration to the contrary, the foregoing restrictions shall not apply to construction vehicles utilized in connection with construction, improvement, installation, or repair by Declarant or Builders, or its agents. Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein, the Association is authorized to order the towing of any vehicle (at said vehicle owner's expense) for a violation of this Section if a vehicle remains in violation of this Section for a period of twenty-four (24) hours from the time a notice of violation is placed on the vehicle or if such a vehicle was cited for such violation within the preceding fourteen (14) day period. Each Owner by acceptance of title to a Home irrevocably grants the Association and its designated towing service the right to enter a Lot and tow vehicles in violation of this Declaration. Neither the Association nor the towing company shall be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing or removal and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind. By accepting title to a Home, the Owner provides

to the Association the irrevocable right to tow or remove vehicles parked on the Owner's Lot and Common Area which are in violation of this Declaration. An affidavit of the person posting the foresaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

Section 9. No septic tanks or individual wells will be permitted on any Lot.

Section 10. No garage may be improved for purposes of making same a living area, nor shall garage doors be removed except for replacement (in which case the Owner must obtain approval of any replacement door from the Board of Directors of the Association). No garage may be used for the operation of a business or for any commercial purpose of any kind.

Section 11. No external window covering, reflective window covering or iron or decorative bars (either interior or exterior) may be placed or permitted to remain on any window of any building without the prior written approval of the Board of Directors of the Association. Window treatments shall consist of drapery, blinds, decorative panels, or other window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) week after an Owner or tenant first moves into a Home or when permanent window treatments are being cleaned or repaired. No security bars shall be placed on the windows of any Home without prior written approval of the ARB. No awnings, canopies or shutters shall be affixed to the exterior of a Home without the prior written approval of the ARB. No reflective tinting or mirror finishes on windows shall be permitted unless approved by the ARB. Window treatments facing the street shall be of a neutral color, such as white, off-white or wood tones. Window or wall air conditioner units are prohibited.

Section 12. No flags or banners other than a Flag permitted by Chapter 720.304, Florida Statutes, or other local, state or federal law, which must be displayed in a respectful manner and which is subject to reasonable standards for size, placement and safety as may be adopted by the Association will be permitted. The foregoing sentence shall not apply to the Declarant.

Section 13. In the event that a Home or other improvement is damaged or destroyed by casualty loss or other loss, then the Owner thereof shall commence to rebuild or repair the damaged Home or improvement in accordance this Declaration. As to any such reconstruction of a destroyed Home or improvements, the same shall only be replaced as approved by the ARB. Notwithstanding anything to the contrary herein, to the extent that insurance coverage obtained and maintained by the Association covers such casualty destruction, the Owner of such damaged or destroyed Home shall not perform any activities that would negate such coverage or impair the availability of such coverage.

Section 14. Except for normal construction activity, sale, and re-sale of a Home, sale or re-sale of other property owned by Declarant or Builders, no commercial or business activity shall be conducted in the Community that disrupts the residents, including without limitation, within any Home. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a home business office within a Home for such Owner's personal use; provided, however, business invitees, customers, and clients shall not disrupt the residential nature of the Community unless the Board provides otherwise in the Rules and Regulations. No Owner may actively engage in any solicitations for commercial purposes within

the Community. No solicitors of a commercial nature shall be allowed within the Community, without the prior written consent of Association. No day care center or facility may be operated out of a Home. No garage sales are permitted, except as permitted by Association.

Section 15. No exterior visible antennae, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home or Lot without the prior written approval thereof being first had and obtained from the ARB as required by this Declaration. The ARB may require, among other things, that all such improvements be screened so that they are not visible from adjacent Homes, or from the Common Areas. No Owner shall operate any equipment or device which will interfere with the radio or television reception of others. All antennas not covered by the Federal Communications Commission ("FCC") rules are prohibited. Installation, maintenance, and use of all antennas shall comply with restrictions adopted by the Board and shall be governed by the then current rules of the FCC.

Section 16. Subject to the architectural control provisions set forth in Article VIII hereof, white vinyl pvc fences shall be permitted in locations approved pursuant to Article VIII hereof, not to exceed six (6) feet in height. On lakefront Lots, any fence that will affect the lake view of adjacent Lots shall be limited to a black aluminum picket fence, not to exceed four (4) feet in height, in locations approved pursuant to Article VIII hereof.

ARTICLE X

EASEMENTS

Section 1. Easements are reserved over each Lot and the Common Area for public service purposes including but not limited to, police protection, fire protection, emergency services, postal service and meter reading.

Section 2. Easements for ingress and egress and for the installation and maintenance of all utilities, surface water management and drainage facilities and landscaping are reserved on and over each Lot and the Common Area. The right is also reserved to the Declarant and the Association to create additional utility easements by separate instrument as may be required from time to time.

Section 3. Notwithstanding any other provisions contained in this Declaration, in the event that any Home, as constructed by the Declarant on a Lot, encroaches upon any portion of the Common Area or adjoining Lot, then a perpetual easement appurtenant to such Lot shall exist for the continuance of any such encroachment on the Common Area or adjoining Lot. In the event any fence, roof, overhanging roof, or portion of the Home, as constructed upon any Lot by Declarant, encroaches or overlaps upon any other Lot or the Common Area, then, in such event, a perpetual easement appurtenant to the Lot upon which the fence, roof, overhanging roof, or Home is construction shall exist for the continuation of any such encroachment or overlapping upon the adjoining Lots and Common Area.

Section 4. The Association shall have the responsibility to maintain all drainage easements, drainage facilities and drainage pipes and equipment within the Property and the expense for same will be a common expense of the Association.

Section 5. An easement is reserved over the Property, including each Lot, in favor of the Association for maintenance of the Common Area and to allow the Association to fulfill any and all of its maintenance obligations hereunder.

Section 6. An easement is reserved over the Property, including each Lot, in favor of the Declarant for the purpose of carrying out any obligations of the Declarant under the terms of this Declaration or any governmental permit, order or applicable law in connection with the development of the community and construction of Homes therein. In addition, the Declarant shall also have an easement over, upon, across, and under the Property as may be required in connection with the development of the community and construction of Homes, including the right to use all roads and rights of way for vehicular and pedestrian ingress and egress for construction and maintenance purposes. Further, the Declarant shall have an easement to use all portions of the Property, including Common Areas, for all types of promotional and sales activity in connection with marketing, sales, and leasing of Homes in the Community. The easements created by this section shall be broadly construed and supplement other rights of the Declarant herein, running with the land until such time as the Declarant no longer owns any Lots in the Community and all of the Declarant's obligations hereunder are satisfied.

ARTICLE XI

COVENANTS FOR HOME MAINTENANCE

Section 1. Maintenance of Homes. Each Lot Owner shall be responsible for the maintaining, repairing, and replacing of the Home and all other improvements situated on his Lot in a clean, sanitary, neat, safe and orderly condition, including without limitation, all obligations for structural maintenance, repair or replacement of walls, windows and roofs, including gutters, downspouts and skylights, and maintenance, repair and replacement of mailboxes and fences. Further, the Lot Owner shall be responsible for maintenance, repair or replacement of each Home and related improvements, including, but not limited to, any stucco repairs, any structural repairs, any windows, window screens, patio screens, screened enclosures, balcony railings, tiles, if any, front doors, side doors, rear doors, and/or the framing or casings of any of the foregoing, any air-conditioning or water softening fixtures or equipment, or any equipment, facilities or other items whatsoever installed within or placed upon any Lot by any Owner, including its agents, or other designees, and/or any other maintenance obligations designated as the Owners' responsibilities from time to time in the Declaration or the Rules. The Lot Owner shall obtain the written consent of the Association prior to making any modifications requiring approval under Article VIII hereof. It will also be the duty of each Lot Owner to maintain in good repair any driveway servicing a single Lot. If any Lot Owner breaches these covenants, the Association may enforce these covenants in accordance with the provisions of this Declaration.

Section 2. Lawn Maintenance. It shall be the duty of the Association to maintain and cut the grass located on the Lot Owner's Lot, the cost of such grass maintenance on the Lot

Owner's property being assumed by the Association for the benefit of the entire Property as if same were Common Area, and such costs being considered with the budget as part of grounds' maintenance. The Lot Owner shall not plant any trees or shrubbery on his Lot without first obtaining the prior written consent of the Association. The Association is hereby granted an easement over and across the Lot Owner's Lot for the purpose of maintaining and cutting the grass, and the Lot Owner shall not place any obstruction, fence, wall, tree or shrubbery on such ground without the consent of the Association, the said consent being conditioned on the Association having free access to the property for the purpose of maintaining and cutting the grass. All sod replacement shall be at the expense of the Owner unless such replacement is necessary due to actions or inactions of the Association.

Section 3. Irrigation. It shall be the duty of the Association to maintain the irrigation system for the Community, including irrigation of Common Areas and irrigation to the Lots. Said irrigation system will run both on Lots and Common Area. The Lot Owner is responsible for the maintenance and repair of any portion of the irrigation system located on the Lot Owner's Lot. If the Owner fails to maintain the irrigation system on the Owner's Lot, the Association is hereby granted an easement over and across the Lot Owner's Lot for the purpose of installing and maintaining the irrigation system, and the Lot Owner shall not place any obstruction, fence, wall, tree or shrubbery over the irrigation system without the consent of the Association. The Lot Owner shall be responsible for all costs incurred by the Association in maintaining the irrigation system on the Owner's Lot and shall promptly reimburse the Association within ten (10) days after receipt of an invoice from the Association for such maintenance. A Lot Owner shall be responsible for payment of any costs related to the repair and/or replacement necessary as a result of any damage done to the irrigation system, whether on the Owner's Lot or the Common Area, caused by Owner, any member of Owner's family, any guests, invitees, tenants, contractors, workers or agents of Owner.

Section 4. Landscaping. The Association shall be responsible for the maintenance of all landscaping within any landscape easement or landscaping originally installed by the Declarant, a Builder or by the Association. Such maintenance shall include routine trimming, weeding and pruning of the landscaping. Each Owner shall be solely responsible for all maintenance of any landscaping installed on the Lot by the Owner. The Association is hereby granted an easement over and across an Owner's Lot for the purpose of maintaining the landscaping in accordance herewith. Owners hereby acknowledge the landscape material on the Property and within any landscape easement is intended to fulfill required landscape buffers of adjacent properties. Owners shall not cut or remove any landscape materials on landscape easements, landscape materials installed by the Declarant or the Association or any landscape materials required to remain pursuant to a permit or other governmental regulation. Any Owner violating the restrictions of this section resulting in landscaping needing to be repaired or replaced will be charged the cost of such work.

Section 5. Insurance. Each Owner of a Lot shall obtain insurance coverage upon the Lot insuring the Home and any improvements located thereon in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs. Such coverage shall afford protection against (i) loss or damage by fire, hurricane, tornado, wind-storm, or other hazards covered by a standard extended coverage endorsement, and (ii) such other risks as from time to time shall be customarily covered with respect to similar construction,

location and use as the Home including but not limited to vandalism and malicious mischief. Such coverage shall name the Association as an additional insured party. The Owner shall furnish proof of insurance to the Association at the time of purchase of a Lot and shall furnish proof of renewal of such insurance on the anniversary date thereof upon request.

Section 6. Exterior Painting and Pressure Cleaning. Each Lot Owner shall be responsible for exterior painting and pressure cleaning of the Home and improvements thereon as required by the Association in accordance with this section. It is anticipated that the Association shall require all Homes to be painted every five years. In addition, it is anticipated that the Association shall require the roof, exterior walls, sidewalks, patios and driveways of all Homes to be pressured washed every three years. The Board shall convene a duly noticed meeting to determine when the uniform exterior painting and pressuring washing shall be required for all Homes in the Community and each Owner shall have at least 120 days to commence the work after the Association provides written notification of required painting or cleaning. Each Owner shall have the right to paint or clean more frequently than required by the Association, provided that prior written approval of paint color is obtained from the Board. Notwithstanding the foregoing, by majority vote of the Members at a duly notice meeting, the Association may enter into a contract for painting or pressuring washing of all Homes in the Community and charge each Owner its equal share of the cost thereof as a Special Assessment. If any Lot Owner fails or refuses to paint or pressure wash its Home or other improvements as required herein, the Association may perform the work and charge the Owner the cost thereof as a Special Assessment.

ARTICLE XII

COVENANTS RELATING TO FIRST MORTGAGEES

Section 1. The following actions will require the prior written approval of two-thirds (2/3) of the holders of record of Institutional First Mortgages on Lots within the Property, (based upon one (1) vote for each Institutional First Mortgage holder): the abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Area by the Association, other than the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area; a material change in the method of determining the assessments or other charges that may be levied against an Owner; the failure of the Association to maintain fire and extended coverage on any insurable improvements hereafter on the Common Area and any insurable improvements thereon in an amount that shall not be less than one hundred (100%) percent of the insurable value, based on the current replacement costs; the use of the insurance proceeds paid to the Association for any loss to the Common Area, or the improvements thereon, for any purpose other than the repair, replacement or reconstruction of the Common Area and the improvements thereon; the amendment of the Declaration in any manner which materially affects or impairs the rights of an Institutional First Mortgagee; the conveyance, encumbrance or hypothecation in any manner of the Common Area.

Section 2. An Institutional First Mortgage encumbering any Lot in the Property may singly or jointly with other Institutional First Mortgagees: pay the taxes or other charges which are in default and which may or have become a charge against the Common Area; pay overdue

premiums on hazard insurance policies for the Common Area; or secure new hazard insurance coverage for the Common Area after lapse of the existing coverage. In the event any Institutional First Mortgagee makes any of the aforementioned payments, such Institutional First Mortgagee shall be entitled to immediate reimbursement from the Association for the payments advanced, and such Mortgagee shall be subrogated to the assessment and lien rights of the Association against the Owners for the repayment of such advance, and the expense of making such reimbursement to the Institutional First Mortgagee shall be deemed a common expense of the Association.

Section 3. No provision of this Declaration shall be interpreted to give an Owner, or any other party, priority over the rights of any Institutional First Mortgagee pursuant to the terms of its Mortgage on any Lot on the Property in the event of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 4. Any Institutional First Mortgagee of a Lot on the Property who obtains title to a Lot pursuant to the remedies provided in said Mortgagee's Institutional First Mortgage on that Lot, or obtains title by deed in lieu of foreclosure, shall not be jointly and severally liable with the prior owner for unpaid assessment or charges accrued against said Lot prior to the acquisition of title to said Lot by such Mortgagee; however, such Mortgagee, or its successors or assigns as a subsequent holder of the first mortgage, acquiring title to a Lot by foreclosure or by deed in lieu of foreclosure, shall be liable for the unpaid Assessments that became due before the mortgagee's acquisition of title in the amount equal to the lesser of (i) the Lot's unpaid Assessments and Special Assessments that accrued or came due during the 12 months immediately preceding the acquisition of title and for which payment in full has not been received by the Association; or (ii) one percent of the original mortgage debt on the Lot. The limitations on Assessment liability for Institutional First Mortgagees obtaining title through foreclosure provided by this paragraph apply only if the Institutional First Mortgagee filed suit against the Lot Owner and initially joined the Association as a defendant in the mortgagee foreclosure action. Joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location that was known to or reasonably discoverable. Institutional First Mortgagees shall be responsible for all Assessments on the Lot as of the date of acquisition, including any Special Assessment assessed or coming due after the date of acquisition of title to the Lot.

Section 5. The Institutional First Mortgagee of any Lot on the Property is entitled, upon request, to written notification from the Association of any default in the performance by the Owner of any of such Owner's obligations pursuant to the terms of this Declaration, which default is not cured after sixty (60) days notice to such Owner.

Section 6. Any Institutional First Mortgagee who acquires title to any portion of the Property by way of foreclosure, deed in lieu of foreclosure, or otherwise, shall be entitled to any exemption from the restrictions on sales and leasing of Homes and Lots to the same extent that Declarant would be exempt from such restrictions.

ARTICLE XIII

LEASE AND OCCUPANCY RESTRICTIONS

Section 1. Leases. All leases shall be in writing, be approved by the Association and shall provide that the Association shall have the right to terminate the lease in the name of and as agent for the lessor upon default by tenant in observing any of the provisions of the Declaration, the Articles of Incorporation, By-Laws of the Association and applicable rules and regulations, if any. Leasing of Lots and Homes shall be subject to the prior written approval of the Association. The Association may require an interview of the prospective tenant. The Owner or lessee requesting the approval shall pay to the Association a fee of One Hundred and No/100 (\$100.00) Dollars to cover the costs of reviewing the lease, examining records and interviewing the tenant. No lease shall be approved for a term of less than thirty (30) days. No Home may be leased more than four (4) times in any calendar year unless otherwise approved by Association in the case of hardship. The prior written approval of the Association for a lease shall not apply to Lots and/or Homes acquired by an Institutional Mortgagee who has acquired title to the Lot and/or Home through foreclosure or deed in lieu of foreclosure. The Owner will be jointly and severally liable with the tenant to the Association for any sum which is required by the Association to affect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant. The Board of Directors may by a majority vote establish a requirement that a sum of money not to exceed One Thousand and No/100 (\$1,000.00) Dollars or one month's rent, whichever is greater, be deposited in escrow with the Association as a security deposit for the purpose of covering the cost of any damage to the Common Area or other portions of the Property resulting from acts or omissions of tenants (as determined in the sole discretion of the Association). The number of occupants must comply with applicable codes regarding the size of the Home. The tenant, as part of the Lease Agreement, shall agree to abide by and adhere to the terms and conditions of this Declaration together with all Rules and Regulations and all policies adopted by Association. By acceptance of a deed to a Home, the Owner hereby agrees to remove, at the Owner's sole expense, by legal means including eviction, his or her tenant should the tenant refuse or fail to abide by and adhere to this Declaration, the Rules and Regulations and any other policies adopted by Association. Notwithstanding the foregoing, should an Owner fail to perform his or her obligations under this Section, the Association shall have the right, but not the obligation, to evict such tenant and the costs of the same shall be charged to the Owner as an Individual Assessment. During such time as a Home is leased, the Owner of such Home shall not enjoy the use privileges of the Common Areas appurtenant to such Home. If a Lot or Home is occupied by a tenant and the Owner is delinquent in paying any monetary obligation due to the Association, the Association may demand that the tenant pay to the Association all rental payments becoming due and continue to make such payments until all the monetary obligations of the Owner related to the Lot have been paid in full and the Association releases the tenant or until the tenant discontinues tenancy, in accordance with the terms of Florida law.

ARTICLE XIV

WATER MANAGEMENT SYSTEMS

Section 1. Transfer of Surface Water Management System. Should the Association cease to exist, the surface water management system, property containing the surface water management system and water management portions of Common Area shall be conveyed to an agency of local government determined to be acceptable by the WMD. If said agency of local government declines to accept the conveyance, then the surface water management system, property containing the surface water management system and water management portions of the Common Area will be dedicated to a non-profit corporation similar to the Association.

Section 2. Amendments Pertaining to Surface Water Management System. Any Amendment proposed to this Declaration which would affect the surface water management system, conservation areas or water management portions of Common Area shall be submitted to the WMD for review prior to finalization of the Amendment. WMD shall determine if the proposed Amendment will require a modification of the environmental resource or surface water management permit. If a permit modification is necessary, the modification must be approved by WMD prior to the Amendment of the Declaration.

Section 3. Surface Water Management. No Owner or any other person or entity other than Declarant shall do anything to adversely affect the surface water management and drainage of the Property without the prior written approval of the Association and any controlling governmental authority, including but not limited to the excavation or filling in of any lake or canal, or the changing of the elevation of any portion of the Property, provided the foregoing shall not be deemed to prohibit or restrict the initial construction of improvements upon the Property by Declarant or by the developer of any portion of the Property in accordance with permits issued by controlling governmental authorities. In particular, no Owner other than Declarant or the Association shall install any landscaping, place any fill on a Lot, remove or cut littoral plantings or native vegetation, spray herbicide or grade portions of the Property which would adversely affect the drainage of any contiguous Lot. No construction activities may be conducted relative to any portion of the surface water management system, including but not limited to digging or excavation; depositing fill, debris or any other material or item; constructing or altering any water control structure; or any other construction to modify the system as permitted. No Owner or other person or entity shall unreasonably deny or prevent access to water management areas for maintenance, repair or landscaping purposes by the Declarant, the Association, the WMD or any appropriate governmental agency that may require access to carry out obligations set forth in the Permit. No person shall fill, dike, rip-rap, block, divert or change the water retention and drainage areas that have been or may be created without the prior written consent of the Association and WMD. If such actions are permitted by the Permit and WMD, the Declarant or Association may draw water for irrigation or other purposes from any water management area. All recreational activities, including without limitation, boating, swimming, wading or fishing, in water management areas are strictly prohibited.

Section 4. Rights of WMD. The WMD has the right to take enforcement action, including a civil action for an injunction and penalties, against the Association to compel the Association to correct any outstanding problems with the surface water management system

facilities or any mitigation or conservation areas under the responsibility or control of the Association.

Section 5. WMD Permit. The Environmental Resource or Surface Water Management Permit is made a part of this Declaration and attached hereto as Exhibit "C". Copies of the permit and any future permit actions of the WMD shall be maintained by the Registered Agent of the Association for the benefit of the Association.

ARTICLE XV

INSURANCE AND HAZARD LOSSES

Section 1. Authority. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, if available at commercially reasonable rates, for all insurable improvements on the Common Areas. If blanket all-risk coverage is not available at commercially reasonable rates, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. Insurance that shall be carried on the Common Areas and the Association Property, to the extent provided in this Article XV, shall be governed by the following provisions:

Section 2. Named Insured. All insurance policies upon the Common Areas and the Association Property shall be purchased by the Association and shall be placed in a single agency or company, if possible, licensed by the State of Florida. The named insured shall be the Association. The Association has the authority to use their discretion in obtaining the coverage listed hereinafter, as some of the requirements may be or become unobtainable, or may be cost prohibitive.

Section 3. Coverage. The Association shall use its best efforts to maintain insurance covering the following:

(a) Casualty. The Common Areas including any structures thereon, and all fixtures, installations or additions comprising that part of the Common Areas to be insured under the Association's policy(ies) and such improvements from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Areas or owned by the Association (collectively the "Insured Property"), shall be insured in an amount not less than 100% of the full insurance replacement value thereof, excluding foundation and excavation costs. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association. Such coverage shall afford protection against:

(b) Loss or Damage by Fire and Other Hazards covered by a standard extended coverage endorsement; and

(c) Such Other Risk as from time to time are customarily covered with respect to the Common Areas and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.

(d) Flood Insurance. If any part of the Common Areas or Association Property is in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, the Association may maintain a master or blanket policy of flood insurance. The amount of flood insurance should be at least equal to the lesser of 100% of the insurable value of the facilities or the maximum coverage available under the appropriate National Flood Insurance Administration program.

(e) Liability Insurance. If the policy does not include "severability of interest" in its terms, a specific endorsement must be obtained to preclude the insurer's denial of an Owner's claim because of negligent acts of the Association or of other Owners.

(f) Public Liability Insurance. The Association shall obtain public liability and property damage insurance covering all of the Common Areas and the Association Property and insuring the Association and the Members as their interests appear in such amounts and providing such coverage as the Board of Directors of the Association may determine from time to time. The liability insurance shall include, but not be limited to, hired and non-owned automobile coverage.

(g) Workmen's Compensation Insurance. The Association shall obtain workmen's compensation insurance in order to meet the requirements of law, as necessary.

(h) Directors and Officers Liability Insurance. The Association shall obtain directors and officers liability insurance providing such coverage as the Board of Directors of the Association may determine from time to time.

(i) Other Insurance. The Board of Directors of the Association shall obtain such other insurance as they shall determine from time to time to be desirable.

Section 4. Subrogation Waiver. If available, the Association shall obtain policies which provide that the insurer waives its right to subrogation as to any claim against Members, the Association and their respective servants, agents and guests.

Section 5. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association. The cost of insurance premiums and other incidental expenses incurred by the Association in administering and carrying out any of the provisions of this Section shall be assessed against and collected from Members as part of the Annual Assessments.

Section 6. Association's Power to Compromise Claims. The Board of Directors of the Association is hereby irrevocably appointed agent for each Member and for each holder of a mortgage or other lien, for the purpose of compromising and settling all claims arising under insurance policies purchased by the Association, and to execute and deliver releases upon payment of claims.

ARTICLE XVI

GENERAL PROVISIONS

Section 1. Covenants Run With Land. All covenants, conditions, restrictions, reservations, easements, liens and charges contained in this Declaration shall constitute covenants running with the land, and all grantees, devisees, or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions of (a) this Declaration of Covenants, Restrictions, Conditions and Easements, and (b) the Articles of Incorporation and By-Laws of the Association. The Association shall be the entity responsible for the operation and maintenance of the Common Area.

Section 2. Enforcement. The Declarant, during its control of the Association's Board of Directors, shall have the right to enforce all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration by proceedings at law or in equity. Thereafter, the Association or any lot Owner shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. In any such legal or equitable proceedings to enforce any restriction, condition, covenant, reservation, lien or charge now or hereafter imposed by these covenants, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs including at all appellate levels.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

Section 4. Duration. The covenants, conditions, restrictions, reservations, easements, liens and charges provided for in this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. In the event the Association ceases to exist, except as provided in Article XIV, Section 13 herein, any Owner may petition the Circuit Court for the appointment of a Receiver to manage the affairs of the Association and all Common Area and the corresponding infrastructure will be dedicated or conveyed to a similar non-profit organization or entity to assure continued maintenance and operation.

Section 5. Amendment. So long as there is a Class B Membership, Declarant reserves the right to amend this Declaration without the consent of the Lot Owners. Such amendments shall not require the consent of the Institutional First Mortgagee Lenders and shall become effective when executed by Declarant and recorded in the Public Records of the County, Florida. After the Class B Membership terminates, the covenants and restrictions of this Declaration may be amended by an instrument signed by not less than thirty (30%) percent of the Lot Owners. Notwithstanding anything in this Declaration to the contrary, any amendment to the Declaration, Articles or By-Laws affecting any aspect of the surface water management system

must receive prior written approval of the South Florida Water Management District. Any amendments must be properly recorded in the Public Records of the County, Florida.

Section 6. Remedies for Violation. In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees or employees, to comply with any covenant, restriction, rule or regulation, provided the following procedures are adhered to:

(a) Notice: The Association shall notify the Owner of the alleged infraction or infractions. Included in the notice shall be the date and time of a special meeting of a committee of the Association seated for the purpose of hearing such violation matters, at which time the Owner shall present reasons why a fine(s) should not be imposed. At least fourteen (14) days notice of such meeting shall be given.

(b) Hearing: The alleged non-compliance shall be presented to the committee after which the Compliance Committee shall hear reasons why a fine(s) should not be imposed. A written decision of the committee shall be submitted to the Owner by not later than fifteen (15) days after the committee's meeting. The Owner shall have a right to be represented by counsel and to cross examine witnesses.

(c) Amounts: The Board of Directors (if the committee's findings are made against the Owner) may impose special assessments against the Lot owned by the Owner as follows:

(1) First non-compliance or violation which are of a continuing nature: a fine not in excess of One Hundred and No/100 (\$100.00) Dollars per day not to exceed One Thousand and No/100 (\$1,000.00) Dollars in the aggregate.

(2) Second non-compliance or violations which are of a continuing nature: a fine not in excess of One Hundred and No/100 (\$100.00) Dollars per day without a limitation on the aggregate amount of the amount due.

(d) Payment of Penalties. Fines shall be paid not later than five (5) days after notice of the imposition or assessment of the penalties.

(e) Collection of Fines. Fines shall be treated as an assessment subject to the provisions for the collection of assessments as set forth herein.

(f) Application of Proceeds. All monies received from fines shall be allocated as directed by the Board of Directors of the Association.

(g) Non-Exclusive Remedies. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

(h) Right of Entry. In addition to the foregoing rights, whenever (a) there shall have been built within the Property any structure which is in violation of this Declaration or in the event of any damage or destruction of any of the Property or portion thereof by an Owner or any of its guests, invitees, lessees or occupants, into disrepair and/or has not been maintained as required by this Declaration and/or any Rules, or (b) any portion of the Property and/or Home owned by an Owner has fallen into disrepair and/or has not been maintained as required by this Declaration and/or any Rules, a duly authorized representative of the Association may enter upon the Property where such violation, damage or destruction exists and summarily abate, remove or correct the same at the expense of the Owner; provided, however, that the Association shall then make the necessary repairs, constructions, etc., to insure that the Property and improvements where such violation occurred is restored to the same condition in which it existed (or should have existed) prior to such violation, and any such entry, abatement, removal or restoration and construction work shall not be deemed a trespass. All amounts expended by the Association, together with interest thereon at the rate of eighteen (18%) percent per annum from thirty (30) days after the date of notification of the violation and all costs and reasonable attorneys fees incurred by the Association shall be treated as an assessment subject to the provisions for the collection of assessments as set forth herein.

Section 7. Effect of Waiver of Violation. No waiver of a breach of or violation of any of the terms, provisions and covenants in this Declaration, or in the Articles or By-Laws, shall be construed to be a waiver of any succeeding breach or violation of the same term, provision or covenant of this Declaration, or the Articles or By-Laws.

Section 8. Instruments Governing Common Area and Owners of Lots. This Declaration and the Articles and By-Laws, and any lawful amendments thereto shall govern the Common Area and the rights, duties and responsibilities of the Owners of Lots.

Section 9. HUD/FHA, VA, FNMA Approval. If the Property is approved by the Department of Housing and Urban Development ("HUD") as a Planned Unit Development, as long as there is a Class B membership or a Builder selling homes with insured mortgages, the following actions will require the prior approval of HUD/FHA or the Veterans Administration or the Federal National Mortgage Association: Annexation of additional properties, mergers and consolidations, mortgaging of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions affecting or modifying rights of Institutional First Mortgagees hereunder.

Section 10. Agreements for Professional Management. Any agreement for professional management, or any other contract providing for services of the Declarant may not exceed three (3) years. Any such agreement must provide for the termination by either party without cause and payment of a termination fee on sixty (60) days or less written notice.

Section 11. Declarant's and Builders Disclaimer of Representations. Notwithstanding anything to the contrary herein, Declarant and Builders make no warranties or representations whatsoever that the plans presently envisioned for the development of the Property or surrounding land can or will be carried out, or that any real property now owned or hereafter acquired by the Declarant or Builders is or will be subjected to this Declaration, or that any such

real property (whether or not is have been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While Declarant and Builders have no reason to believe that any of the restrictive covenants and other provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant and Builders make no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant and other provisions. Any Owner acquiring a Lot in reliance on or more of such restrictive covenants and other provisions herein shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot agrees to hold Declarant and Builders harmless therefrom. Upon the expiration of the Class B Membership, the Declarant shall be relieved of obligations set forth herein and such obligations shall become the obligations of the Association.

Section 12. Notice to Owners. Whenever notices are required to be given hereunder, the same shall be sent to the Owner by United States First Class Mail, postage prepaid, at the address of the Home situated upon the Lot. Such notices shall be deemed given when deposited in the United States Mail. Any Owner may change his mailing address by written notice given to the Declarant or the Association in the official records of the Florida Department of State, Division of Corporations, or the official address of the Association as it may be designated from time to time.

Section 13. Grammatical Construction. Wherever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the singular shall include the plural, and the plural shall include the singular.

Section 14. Conflicts. In the event of any conflict between the provisions of this Declaration, the Articles and the By-Laws, the provisions of this Declaration, the Articles and the By-Laws shall control in that order.

Section 15. CABLE TELEVISION, INTERNET AND HOME SECURITY MONITORING SERVICES. THE ASSOCIATION IS NOT OBLIGATED TO BUT MAY ENTER TO AN AGREEMENT WITH A CABLE TELEVISION COMPANY, INTERNET SERVICE PROVIDER AND/OR SECURITY MONITORING COMPANY PURSUANT TO WHICH ALL OF THE OWNERS WILL BE PROVIDED CABLE TELEVISION AND/OR INTERNET SERVICE AND/OR HOME SECURITY MONITORING SERVICES WHICH WILL BE CHARGED AS ASSESSMENTS. THE ASSOCIATION MAY REFUSE ENTRY INTO THE PROPERTY BY ANY REPRESENTATIVE OF ANY CABLE TELEVISION COMPANY, INTERNET SERVICE PROVIDER AND/OR SECURITY MONITORING COMPANIES OTHER THAN THE CABLE TELEVISION, INTERNET SERVICE PROVIDER AND/OR SECURITY MONITORING COMPANY WHICH HAS ENTERED INTO AN AGREEMENT WITH THE ASSOCIATION. IN THE EVENT SECURITY MONITORING IS PROVIDED TO THE OWNERS BY THE ASSOCIATION, DECLARANT AND THE ASSOCIATION WILL HAVE NO LIABILITY OF ANY KIND OR NATURE DUE TO THE FAILURE OF THE SECURITY MONITORING COMPANY TO DETECT OR REACT TO FIRE, UNAUTHORIZED ENTRY, OR OTHER SECURITY PROBLEM IN ANY HOME.

Section 16. LIMITATION OF LIABILITY OF ASSOCIATION. NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BYLAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION (COLLECTIVELY, THE "ASSOCIATION DOCUMENTS"), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER BE A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(a) IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE PROPERTY HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTY AND THE VALUE THEREOF;

(b) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, THE COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

(c) ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS HOME) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING USE OF ANY PORTION OF THE PROPERTY (BY VIRTUE OF ACCEPTING SUCH INTEREST OF MAKING SUCH USES) SHALL BE BOUND BY THIS PROVISION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS PROVISION.

AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE

AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. THE PROVISIONS OF THIS ARTICLE SHALL ALSO INURE TO THE BENEFIT OF THE DECLARANT AND ITS AFFILIATES, WHICH SHALL BE FULLY PROTECTED HEREBY.

JOINDER

Celebration Cape, LLC, a Florida limited liability company, whose mailing address is 4235 S.E 20TH PLACE, C505, CAPE CORAL, FL 33904, hereby approves and joins in this Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Celebration Cape Community and the Exhibits attached thereto, and agrees to be bound by the terms thereof and will comply with and perform the terms and conditions of the Declaration.

In Witness Whereof, Celebration Cape, LLC has executed this Joinder on this 2nd day of July, 2013.

Signed, sealed and delivered in the presence of:

Celebration Cape, LLC, a Florida limited liability company

By: Premier Properties of Cape Coral, Inc., a Florida corporation, its managing member

[Signature]
Name: G. DABBY

By: [Signature]
Name: ROGER L. SCHUTT
Title: PRESIDENT

[Signature]
Name: Jennifer Watson

(Corporate Seal)

STATE OF FLORIDA)
) :SS.
COUNTY OF LEE)

The foregoing instruction was acknowledged before me this 2nd day of July 2013 by Roger Schutt, as _____ of Premier Properties of Cape Coral, Inc., as the Managing Member of Celebration Cape, LLC, a Florida limited liability company, on behalf of said company. The foregoing person is well known to me.



JENNIFER L. WATSON
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE876899
Expires 3/3/2017

[Signature]
Name: Jennifer L. Watson
Notary Public, State of Florida
at Large

My Commission Expires:

EXHIBIT "A"

PROPERTY

All of the Plat of Pinewood Lakes Subdivision, according to the Plat thereof, recorded as Instrument Number 2005000122587 in the Public Records of Lee County, Florida.

EXHIBIT "B"

ARTICLES

**Electronic Articles of Incorporation
For**

N09000011582
FILED
December 03, 2009
Sec. Of State
jshivers

CELEBRATION CAPE COMMUNITY ASSOCIATION, INC.

The undersigned incorporator, for the purpose of forming a Florida not-for-profit corporation, hereby adopts the following Articles of Incorporation:

Article I

The name of the corporation is:

CELEBRATION CAPE COMMUNITY ASSOCIATION, INC.

Article II

The principal place of business address:

1310 S.W. 4TH TERRACE
CAPE CORAL, FL. US 33991

The mailing address of the corporation is:

1310 S.W. 4TH TERRACE
CAPE CORAL, FL. US 33991

Article III

The specific purpose for which this corporation is organized is:

THE ASSOCIATION PROVIDES FOR OWNERSHIP, OPERATION,
MAINTENANCE AND PRESERVATION OF THE COMMON AREAS; PERFORM
THE DUTIES DELEGATED IN THE DECLARATION AND ADMINISTER THE
INTERESTS OF THE ASSOCIATION AND THE MEMBERS.

Article IV

The manner in which directors are elected or appointed is:

AS PROVIDED FOR IN THE BYLAWS.

Article V

The name and Florida street address of the registered agent is:

ARANDA HOMES OF FLORIDA, LLC
1310 S.W. 4TH TERRACE
CAPE CORAL, FL. 33991

I certify that I am familiar with and accept the responsibilities of registered agent.

N09000011582
FILED
December 03, 2009
Sec. Of State
jshivers

Registered Agent Signature: DOMINICK IZZO

Article VI

The name and address of the incorporator is:

DOMINICK IZZO
1310 S.W. 4TH TERRACE

CAPE CORAL, FL 33991

Incorporator Signature: DOMINICK IZZO

Article VII

The initial officer(s) and/or director(s) of the corporation is/are:

Title: P
PREMIER PROPERTIES OF CAPE CORAL, INC.
4235 S.E. 20TH PLACE C-505
CAPE CORAL, FL. 33904 US

Title: VP
ARANDA HOMES OF FLORIDA, LLC
1310 S.W. 4TH TERRACE
CAPE CORAL, FL. 33991 US

Title: S,T
ARANDA HOMES, INC
1310 S.W. 4TH TERRACE
CAPE CORAL, FL. 33991 US

Article VIII

The effective date for this corporation shall be:

01/01/2010

EXHIBIT "B-1"

BYLAWS

**Bylaws
Of
Celebration Cape Community Association, Inc.**

A Corporation Not For Profit Under the Laws of the State of Florida

**Section 1
Identity**

1.1 Celebration Cape Community Association, Inc.

These are the Bylaws of Celebration Cape Community Association, Inc. (the *Association*), a corporation not for profit under the laws of the State of Florida as now exists, as may be amended and organized for the purpose of administering that certain Community located in Lee County, Florida known as Celebration Cape Community Association.

1.2 Principal Office

The principal office of the Association shall be at Celebration Cape or at such other place as may be designated by the Board.

1.3 Fiscal Year

The fiscal year of the Association shall be the calendar year.

**Section 2
Definitions**

2.1 Terms Used In Documents

For convenience, these Bylaws shall be referred to as the *Bylaws*, the Articles of Incorporation of the Association as the *Articles*, and the Declaration of Restrictions and Protective Covenants as the *Declaration*. The other terms used in these Bylaws 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.

**Section 3
Proof of Ownership**

- 3.1** Each Unit Owner shall file with the Association a copy of the deed or other document showing his or her ownership, mailing address, phone number and electronic mailing address.

**Section 4
Types and Notices of Meetings**

4.1 Annual Meeting

The annual Members' meeting shall be held in the month of March at the place and time as determined by the Board. The purpose of the meeting shall be to elect Directors, adopt annual budget and transact any and all other proper business to be transacted by the Members or stated in the notice of meeting sent to Unit Owners in advance thereof.

4.2 Special Meetings

Special Members' meetings shall be held at such place and time as called by the President or a majority of the Board, or must be called by the President or Secretary upon receipt of a written request from Thirty Percent (30%) of the voting interests of the Association. The business conducted at a special meeting shall be limited to that stated in the notice of the meeting.

4.3 Notice of Meetings

The President, Secretary, or their designee shall give written notice of all meetings of Members stating the time, place, and purpose for which the meeting is called. A copy of the notice shall be posted at a conspicuous place on the Association property and a copy shall be sent by mail or hand delivered (signature required) or electronically transmitted to each Unit Owner unless the Unit Owner waives, in writing, the right to receive the notice of the meeting. The mailing, electronic notice or delivery shall be to the address of the Unit Owner as it appears on the records of the Association. The mailing, electronic notice or delivery shall be at least fourteen (14) days before the date of the meeting. Proof of notice shall be given by affidavit executed by the person providing the notice and filed upon execution among the official records of the Association.

4.4 Quorum and Lack of Quorum

The percentage of voting interest required to constitute a quorum at a meeting of the Members shall be Thirty Percent (30%) of the total voting interest. Decisions that require a vote of the Members must be made by the concurrence of at least a majority of the voting interest present, in person or by proxy, at a meeting at which a quorum has been attained.

If any meeting of Members cannot be held because a quorum has not been attained (30% of the Membership), the Members who are present, either in person or by proxy, may by announcement adjourn an annual special meeting to a different date, time or place before adjournment is taken, or notice must be given of the new date, time and place as provided above.

4.5 Order of Business

The order of business at annual Members' meetings, and, if applicable, at other Members' meetings, shall be established by the President of the Association.

4.6 Member Attendance

Members and Unit Owners have the right to attend all Membership meetings and to speak at any meeting with reference to all items opened for discussion or included on the agenda. A Member and Unit Owner has the right to speak for at least three (3) minutes on any item, provided that the Member and Unit Owner submits a written request to speak prior to the meeting. The Association may adopt written reasonable rules governing the frequency, duration and other manner of Member and Unit Owner's statements.

4.7 Developer Turnover

The Association shall be turned over to its Members by the Developer upon Ninety Percent (90%) of the land parcels (units) being sold by the Developer or at any other time prior thereto as determined solely by the Developer.

Section 5
Voting

5.1 Number of Votes

In any meeting of Members, the owners of Units shall be entitled to cast one vote for each Unit owned. The vote of a Unit is not divisible.

5.2 Majority Vote

The acts approved by a majority of the votes present in person, or by proxy at a meeting at which a quorum shall have been attained, shall be binding upon all Owners for all purposes except where otherwise provided by law, the Declaration, the Articles or these Bylaws.

5.3 Proxies

Votes may be cast in person or by proxy. To be valid, a proxy must be dated, must state the date, time and place of the meeting for which it is given, and must be signed by the authorized person who executed the proxy. A proxy may be made by any person entitled to vote, but shall only be valid for the specific meeting for which originally given and any lawful adjourned and reconvened meetings thereof. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person executing it. A proxy must be filed in writing, signed by a person authorized to cast the vote for the Unit, and filed with the Secretary before the appointed time of the meeting, or before the time to which the meeting is adjourned. Holders of proxies must be persons eligible to cast a vote on behalf of a Unit as set forth in Section 5.1 of these Bylaws, or a spouse of an eligible voter.

Section 6
Election of Board of Directors

6.1 Election

The regular election of Directors shall occur at the annual meeting.

6.2 Director Qualifications

Directors must be Unit Owners or the spouse of a Unit Owner. A Unit Owner and their spouse may not be elected to serve on the board at the same time.

6.3 First Notice — Candidates

Not more than sixty (60) days before the election, the Association shall mail, deliver, or electronically transmit to each Unit Owner entitled to vote a first notice of the date of the election. Any Unit Owner or other eligible person wishing to be a candidate may qualify as such by giving written notice to the Association at least forty-five (45) days before the annual election.

6.4 Second Notice -Candidate Information Sheet

The Association shall mail, deliver, or electronically transmit a second notice of the Annual meeting, together with a ballot listing all qualified candidates in alphabetical order by surname and any information sheet submitted by the candidate to be distributed to the Membership. All candidate information sheets should be on one side of an 8 1/2 inches by 11 inch piece of paper, furnished by the candidate. The costs of the mailing and copying the candidate information sheet are borne by the Association.

- 6.5 **Ballot**
The ballot prepared for the annual meeting shall list all director candidates in alphabetical order by the last name. Directors shall be elected by a plurality of the votes cast, cumulative voting is not allowed.
- 6.6 **Tie votes**
Tie votes shall be broken by agreement among the candidates who are tied, or if there is no agreement, by lot, such as the flipping of a coin by a neutral party.
- 6.7 **Fair Election**
The Board may adopt additional procedures to ensure a fair election.
- 6.8 **Nominations From the Floor**
Nominations shall not be accepted from the floor on the date of the election.
- 6.9 **No Election Necessary**
No election shall be necessary if the number of candidates is less than or equal to the number of vacancies.
- 6.10 **Term**
In order to provide for a continuity of experience by establishing a system of staggered terms of office, at the first election after the adoption of these Bylaws, the number of Directors to be elected shall initially be three (3). The two (2) candidates receiving the highest number of votes shall be elected for a term which expires at the annual election after the next annual election. The one (1) receiving the least votes shall serve until the next annual election. Three years from the election of the first Board the Board shall increase to five (5) Members. Then the three (3) receiving the highest number of votes shall each be elected for a term which expires at the annual election after the next annual election. The two (2) candidates receiving the next highest number of votes shall each be elected for a term which expires at the next annual election. If there are five (5) or fewer candidates, the determination of who will serve the longer terms shall be made among the candidates by agreement or by lot. Therefore, all Directors shall be elected for two (2) year terms.

Section 7
Directors and Officers

- 7.1 **Directors**
A Board of initially three (3) and increased and provided above to five (5) Members shall govern the affairs of the Association.

7.2 Executive Officers

The executive Officers of the Association shall be a President, a Vice-President, a Treasurer, and a Secretary, all of whom shall be elected by the Board and who may be peremptorily removed at any meeting by concurrence of the majority of all of the Directors. A person may hold more than one (1) office except that the President may not also be the Secretary. No person shall sign an instrument or perform an act in the capacity of more than one (1) office. The Board from time to time shall elect such other Officers and hire such agents and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. Officers must be Directors.

7.3 Officer Responsibilities

7.3.1 President

The President shall be the chief executive Officer of the Association. He/she shall have all of the powers and duties that are usually vested in the office of the president of an association.

7.3.2 Vice President

The Vice President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He/she also shall assist the President, and exercise such other powers and perform such other duties as shall be prescribed by the Board.

7.3.3 Secretary

The Secretary shall keep the minutes of all proceedings of the Directors and the Members. He/she shall attend to the serving of all notices to the Members and Directors and other notices require by law. He/she shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by law, the Directors or the President.

7.3.4 Treasurer

The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He/she shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board for examination at reasonable times. He/she shall submit a treasurer's report to the Board at reasonable intervals and shall perform all other duties incident to the office of treasurer as required by law.

7.4 Managing Agent

Nothing contained in this section shall preclude an office from delegating the authority assigned to the office to the managing agent when practical or necessary.

7.5 Compensation

Neither Directors nor Officers shall receive compensation for their services as such.

7.6 Resignation

Any Director or Officer may resign his/her post at any time by written resignation delivered to the President or Secretary, which shall take effect upon its receipt unless a

later date is specified in the resignation, in which event the resignation shall be effective from such date. The acceptance of a resignation shall not be required to make it effective. A Director is presumed to have resigned when he/she is no longer a Member or spouse of a Member of the Association.

Section 8

Meetings and Requirements of Board of Directors

8.1 Organizational Meeting

The organizational meeting of a newly elected or appointed Board shall be held immediately following the annual meeting.

8.2 Regular Meetings

Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors or as called by the President.

8.3 Notice of Regular Meetings

Notice of regular meetings shall be given to each Member and each Director at least forty-eight (48) hours prior to the meeting, except in an emergency. Meetings of the Board shall be open to all Unit Owners. For the attention of the Members, the notice of such meetings shall be posted conspicuously on the Association property forty-eight (48) hours in advance, except in the event of an emergency.

8.4 Special Meetings of the Board

Conspicuous written notice of any meeting at which a special assessment, or at which rules or amendments regarding Unit use will be considered, shall be provided to the Owners via one (1) of the methods set forth in Section 4.3 of these Bylaws and posted at a designated location in the community not less than fourteen (14) continuous days prior to the meeting. Evidence of compliance with this fourteen (14) day notice shall be by affidavit by the person providing the notice *and* filed among the official records of the *Association*.

8.5 Special Meeting of the Board of Directors

Special meetings of the Directors may be called by the President. At the written request of three (3) of the Directors, the President or Secretary are required to call a special meeting to discuss the issue at hand. Notice of the meeting shall state the time, place, and purpose of the meeting and comply with the notice provisions to the Member and Board as set forth in Section 8.3 above.

8.6 Waiver of Notice

Any Director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the giving of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting except when his/her attendance is for the sole purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

8.7 Presiding Officer

The presiding Officer of the Board meetings shall be the President or in his/her absence, the Vice-President. In the absence of, or by request of either presiding Officer, the Directors present may designate another Member of the Board to preside.

8.8 Quorum

A quorum at Board meetings shall consist of a majority of Board members. No meeting of the Board may be held without a quorum. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board, except when approval by greater number of Directors is required by the Declaration, the Articles, or these Bylaws.

8.9 Parliamentary Rules

Roberts Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declarations, the Articles, or these Bylaws. The above notwithstanding, the Board or the Members may, by consensus, agree to less formal rules and procedures at their respective meetings.

8.10 Minutes of Meetings

The minutes of all meetings of the Board shall be kept in a book available for inspection at any reasonable time by Unit Owners or their authorized representative.

8.11 Adjourned Meetings

If at any meeting of the Board there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. An additional meeting notice must be posted for the adjourned meeting in accordance with Sections 8.3 and 8.4 of these Bylaws.

8.12 Vacancies

The remaining Directors shall fill vacancies on the Board in the event of death, resignation, removal, or disqualification, even though the remaining Directors may be less than a quorum. A person so appointed shall serve until the next annual meeting.

8.13 Removal of Directors

Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association.

Section 9
Written Agreement

9.1 Approval of Members

Any action requiring approval of the Members may, at the discretion of the Board, be approved by written agreement of a majority of the Membership with or without a meeting.

9.1.1 Action Without a Meeting of Members

Anything to the contrary herein notwithstanding, to the extent lawful, any action required or permitted to be taken at any annual or special meeting of Members may be taken without a meeting, provided the Association mails or delivers a letter or similar communication to each owner that explains the proposed action.

9.1.2 Consent of Action

The communication shall include a form of consent to permit each owner to consent to the proposed action and instructions on consent procedures.

9.13 Votes Required

The Association may proceed with the proposed action without further notice and without a vote at a Membership meeting provided consents in writing, setting forth the action so taken, shall be signed by the Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of Members at which a quorum of Members entitled to vote thereon were present and voted.

9.1.4 Allotted Time Frame

If the requisite number of writing consents are received by the Secretary within sixty (60) days after the earliest date which appears on any of the consent forms received, the proposed action so authorized shall be of full force and effect as if the action had been approved by vote of the Members at a meeting of the Members held on the sixtieth (60th) day.

9.1.5 Notification of Members

Within ten (10) days after obtaining such authorization by written consent, notice must be given to Members who have not consented in writing. The written notice shall fairly summarize the material features of the authorized action. Members may also consent in writing to actions taken at a meeting by providing a written statement to that effect and their vote shall be fully counted as though they had attended the meeting per Section 6.17.0701(4)(a), Florida Statutes.

9.2 Revocation

Any written consent or agreement may be revoked prior to the date that the required numbers of consents to authorize the proposed action are received. A revocation is only effective if in writing and when received at the principal office of the Association.

9.3 Consent as Vote

A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

9.4 Recording

If the action to which the Members consent is such as would have required the filing of a certificate if such action had been voted on by the Members at a meeting thereof, the certificate filed must state that written consent has been given in accordance with provisions of Section 617.0701, Florida Statutes.

9.5 Record of Action

Whenever action is taken pursuant to this section, the written consent of the Members consenting to such action, or the written reports of inspectors appointed to tabulate such consents, must be filed with the minutes.

Section 10
Executive Board Responsibilities

10.1 Powers and Duties

The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may take all acts in executing such powers except such acts which, by law, the Declaration or these Bylaws may not be delegated to the Board by the Unit

Owners. Such powers and duties of the Board shall include, but not be limited to, without limitation (except as limited elsewhere herein) the following:

- 10.1.1 **Maintenance of Common Areas**
Operation, care, upkeep and maintenance of the common areas.
- 10.1.2 **Operational Expenses**
Determination of the expenses required for the operation of the Association.
- 10.1.3 **Assessment Collection**
Collection of the assessments for Association expenses from Unit Owners who are required to pay.
- 10.1.4 **Hiring and Firing of Personnel**
Employment and dismissal of the personnel necessary for the maintenance and operation of the common areas.
- 10.1.5 **Adoption and Amendment of Rules and Regulations**
Adoption and amendment of the Rules and Regulations concerning the details of the operation and use of the Common Areas and Units.
- 10.1.6 **Acquisition of Units**
Purchasing, leasing or otherwise acquiring Units in the name of the Association, or its designee.
- 10.1.7 **Purchasing Units at Foreclosure or Judicial Sales**
Purchasing Units at foreclosure or other judicial sales, in the name of the Association, or its designee.
- 10.1.8 **Selling, Leasing, Mortgaging Units**
Selling, leasing, mortgaging, or otherwise dealing with Units acquired by, and subleasing Units leased by, the Association, or its designee.
- 10.1.9 **Additional Designees**
Organizing corporations to act as designees of the Association in acquiring title to or leasing Units by the Association.
- 10.1.10 **Insurance**
Obtaining and reviewing insurance for the Association property, Units and improvements thereon.
- 10.1.11 **Repairs, etc., to Association Property**
Making repairs, additions, and improvements to, or alterations of, the Association property, and repairs to, and restoration of the Association property, in accordance with the provisions of, the Declarations after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

10.1.12 Management of Association

Enforcing obligations of the Unit Owners, allocating profits and expenses, and doing anything and everything else necessary and proper for the sound management of the Association.

10.1.13 Providing Contractors for Management of Association Property

Contract for the management of the Association and delegate to such contractor such powers and duties of the Board as the Board may deem appropriate in the circumstances, except those which may be required by the Declaration and these Bylaws to be approved by the Board or other Unit Owners to contract for the management or operation of the Association Property susceptible to separate management or operation thereof, and to grant concessions for the purpose of providing services to the Unit Owners. In exercising this power the Association may contract with affiliates of itself.

10.1.14 Authorization of the Use of Common Areas

At its discretion, to authorize Unit Owners or other persons to use Common Areas, etc. for private parties and gatherings and to impose reasonable charges for such uses.

10.1.15 Exercising Powers

To exercise all powers specifically set forth in the Declaration, the Articles, these Bylaws, and in the Florida Corporation Not For Profit Act, and all powers incidental thereto.

10.1.16 Lease/Sale of Unit

To impose a fee in connection with the approval of the transfer, lease, or sale of a Unit.

10.1.17 Committee Appointments

To appoint committees from among the Members to assist in the conduct of the affairs of the Association as they, in their discretion, may determine appropriate.

Section 11
Fiscal Management

11.1 The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:

11.1.1 Budget

The Board on behalf of the Association shall from time to time, and at least annually, adopt a budget for the Association, which shall be detailed and shall show the amounts budgeted by accounts and expense classifications. The Board shall determine the amount of assessments payable by the Unit Owners to meet the expenses of the Association, and allocate and assess such expenses among the Unit Owners in accordance with the provisions of the Declaration. The assessment is payable monthly, unless the Board resolves to permit quarterly payments.

11.1.2 Budget Adoption and Distribution

The Board of Directors shall post the notice of the budget meeting along with a copy of the proposed budget at least fourteen (14) days in advance as set forth in Section 4.3 of these Bylaws. After adoption of the budget, the Board shall provide a copy of the budget to each Unit Owner or written notice advising that a copy of the budget shall be provided upon request at no cost to the Owner.

11.1.3 Substitute Budget

If the adopted budget requires assessments against Unit Owners which exceed one hundred and fifteen (115) percent of assessments for the preceding fiscal year, the Board shall conduct a special meeting of the Unit Owners to consider a substitute budget if the Board receives, within twenty-one (21) days after adoption of the budget, a written request for a special meeting from at least ten (10) percent of all voting interests.

11.1.4 Special Budget Meeting

The special budget meeting shall be conducted within sixty (60) days after adoption of the annual budget. At least fourteen (14) days prior to a special meeting, the Board shall hand deliver to each Unit Owner, or mail to each Unit Owner at the address last furnished to the Association, a notice of the meeting. An officer or manager of the Association shall execute an affidavit evidencing compliance with this notice requirement and such affidavit shall be filed among the official records of the Association.

11.1.5 Adopting a Substitute Budget

Unit Owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a majority of all voting interests unless these Bylaws require adoption by a greater percentage of voting interests. If there is not a quorum at the special meeting, or a substitute budget is not adopted, the annual budget previously adopted by the Board shall take effect as scheduled.

Section 12
Assessments

12.1 Advance Notice of Assessments

Assessments against the Unit Owners for their share of the items of the budget shall be made for the calendar year annually in advance preceding the year for which the assessments are made.

12.2 Assessment Due Date

Such assessments shall be due in equal installments, payable in advance on the first (1st) day of each month or as determined by the Board, but in no event, less frequently than quarterly (1/4) of the year for which the assessments are made.

12.3 Failure to Provide Annual Assessment

If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment, and installments on such assessment shall be due upon each installment payment date until changed by an amended assessment.

12.4 **Insufficient Annual Assessment**

In the event the annual assessment proves to be insufficient the Board may amend the budget and assessments at any time upon notice to Member and the Board as set forth herein.

12.5 **Charges Other Than Association Expenses**

Charges by the Association against Members for other than Association expenses shall be payable in advance except when not practical or in an emergency. These charges shall be collected by assessment in the same manner as Association expenses, *and* when circumstances permit, those charges shall be added to the assessments for Association expenses.

12.5.1 **Notice of Charges**

Charges for other than Association expenses may be made only after notice to the Members, except in an emergency, or when expressly provided for in the Declaration or the exhibits annexed thereto as the same may be amended from time to time.

12.5.2 **Type of Charges**

Charges for other than Association expenses may include without limitation, charges for the use of the Association property or recreation areas, maintenance services furnished at the expense of a Member, and other services furnished for the benefit of a Member.

12.5.3 **Special Assessments**

Assessments for Association expenses that cannot be paid from the annual assessments for Association expenses, shall be due, and shall be paid, in such manner as the Board may require in the notice of assessment.

12.5.4 **Acceleration of Assessment Installments Upon Default**

If a Unit Owner shall be in default in the payment of an installment upon an assessment, the Board may accelerate the remaining installments of the assessment upon notice to the Unit Owner, and the unpaid balance of the assessment shall be due upon the date stated in the notice, but not less than five (5) days after delivery of the notice to the Unit Owner, or not less than ten (10) days after the mailing of such notice to him/her by registered or certified mail, whichever shall first occur.

12.5.5 **Unpaid Assessments Or Charges**

The Association shall have a lien on each unit to secure the payment of assessments and charges. The Association may for unpaid assessments and charges file a lien against a unit and proceed to foreclose such lien as provided in FS 720.3085, Florida Statutes.

Section 13

Depository

13.1 **Choice of Depository**

The depository of the Association shall be such bank or banks, savings banks, brokerage firms, other depositories, money market funds, or securities as shall be designated from time to time by the Board, or the Treasurer if so designated, and in which the monies of the

Association from assessments or from contributions to working capital may be commingled in a single fund or divided into more than one (1) fund.

Section 14
Association Accounts

14.1 Financial Reporting

Within ninety (90) days after the end of the fiscal year, the Association shall prepare and complete, or contract with a third party for the preparation and completion of a Financial Report for the preceding year. Within twenty-one (21) days after the Financial Report is completed by the Association or received from the third party, the Association shall within fourteen (14) days provide each Member a copy of the Annual Report or written notice that such is available upon request at no charge to the Member.

14.2 Audits

An audit or review of the accounts of the Association may be made from time to time as directed by the Board. The Board shall furnish each Member of the Association a copy of any audit or review report received as a result of an audit or review not less than thirty (30) days after its receipt.

14.3 Accounting Records and Reports

The Association shall maintain accounting records in Lee County. The records shall be open to inspection by Owners or their authorized representatives at reasonable times and written summaries of them shall be supplied at least annually.

Section 15
Amending the Bylaws

15.1 Amendments

Except as otherwise provided in the Declaration, these Bylaws may be amended in the following manner:

15.1.1 Method of Proposal

A resolution for the adoption of a proposed amendment may be proposed by a majority of the Board or by Thirty Percent (30%) or more of the voting interests of the Association.

15.1.2 Subject Matter

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.

15.1.3 Adoption

An amendment so proposed may be approved by written agreement of two-thirds (2/3) of all voting interests, or by two-thirds (2/3) of the voting interest present, in person, or by proxy, and voting at a duly noticed meeting of the Association.

15.1.4 Execution and Recording

An amendment shall be evidenced by a certificate of the Association that shall include recording data identifying the Declaration, and shall be executed in the form required for the execution of a deed. An amendment of these Bylaws is effective when properly recorded in the Public Records of Lee County.

15.2 **Rules and Regulations**

Concerning the use of portions of the Association and Units, the Board may, from time to time, make, modify, amend, or add to such Rules and Regulations concerning use, transfer, maintenance, appearance, or occupancy of the Association property and Units. Copies of the Rules and Regulations shall be furnished to each Unit Owner.

15.3 **Voting Suspension**

The Directors may, pursuant to Florida Statute 720.305, suspend the voting *rights* of a Member for nonpayment of regular annual assessments that are delinquent in excess of ninety (90) days.

15.4 **Construction**

Wherever the context so permits, the singular shall include the plural, the plural shall include the singular and the use of any gender shall be deemed to include all genders.

15.5 **Captions**

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision hereof.\


15.6 **Conflicts**

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control, and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control. In the case of any conflict between the Articles of Incorporation, the Declaration or the Bylaws and applicable Florida Statutes, Florida Statutes shall control.

Executed this 15th day of March, 2010.

**CELEBRATION CAPE COMMUNITY
ASSOCIATION, INC.**

By:


ROGER J. SCHMITT
Its President

By:

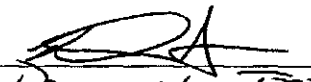

Dominic C. [unclear]
Its Secretary

EXHIBIT "C"

Environmental Resource or Surface Water Management Permit



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ENVIRONMENTAL RESOURCE
STANDARD GENERAL PERMIT NO. 36-04982-P
DATE ISSUED: July 15, 2004**

Form #0941
08/95

PERMITTEE: PINWOOD LAKES DEVELOPMENT LLC
PO BOX 151520
CAPE CORAL, FL 33915

PROJECT DESCRIPTION: This application is a request for an Environmental Resource Permit authorizing Construction and Operation of a surface water management system serving a 20.58-acre residential project known as Pinewood Lakes, with discharge into waters of the tidal Caloosahatchee via the Cape Coral Canal System.

PROJECT LOCATION: LEE COUNTY, SEC 24 TWP 44S RGE 23E

PERMIT DURATION: See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Notice of Intent for Permit Application No. 040218-2, dated February 18, 2004. This action is taken pursuant to Rule 40E-1.603 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

Based on the information provided, District rules have been adhered to and an Environmental Resource General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 General Conditions (See Pages : 2 - 4 of 5),
3. the attached 14 Special Conditions (See Pages : 5 - 5 of 5) and
4. the attached 7 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 15th day of July, 2004, in accordance with Section 120.60(3), Florida Statutes.

BY: Will Rippe
to Jacqueline Rippe, P.E.
Director
Lower West Coast Service Center

Certified mail number 7003 0500 004 0207 4020

GENERAL CONDITIONS

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 3 F.S.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a professional engineer or other individual authorized by law, utilizing the supplied Environmental Resource/Surface Water Management Permit Construction Completion/Certification Form Number 0881A, or Environmental Resource/Surface Water Management Permit Construction Completion Certification - For Projects Permitted prior to October 3, 1995 Form No. 0881B, incorporated by reference in Rule 40E-1.659, F.A.C. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings and specifications. This determination shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. All surveyed dimensions and elevations shall be certified by a registered surveyor.
7. The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and

GENERAL CONDITIONS

maintenance entity until the operation phase of the permit becomes effective. Following inspection approval of the permitted system by the District, the permittee shall initiate transfer of the permit to approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.

9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be received by the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.

10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.

11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..

12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the State, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.

13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.

14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.

15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application including plans or other supporting documentation, shall not be considered binding, unless otherwise stated in the permit.

16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of

GENERAL CONDITIONS

ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.

17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on July 15, 2009.
2. Operation of the surface water management system shall be the responsibility of PINEWOOD LAKES PROP. OWNERS ASSOC., INC. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.
3. Discharge Facilities:

Structure: CS-1
1-.7' W X .7' H V-NOTCH weir with crest at elev. 11' NGVD.
1-.25' dia. CIRCULAR ORIFICE with invert at elev. 10' NGVD.
Receiving body : CAPE CORAL CANAL SYSTEM
Control elev : 10 feet NGVD. /10 FEET NGVD DRY SEASON.
4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Lake side slopes shall be no steeper than 4:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth, unless shown on the plans.
8. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
9. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
10. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
11. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
12. Minimum building floor elevation: BASIN: SINGLE BASIN - 14.32 feet NGVD.
13. Minimum road crown elevation: Basin: SINGLE BASIN - 12.02 feet NGVD.
14. Plan sheets 1, 4, 5, 12 and 13 of 16 dated May 18, 2004 signed and sealed by James Scott Matey, P.E. from Avalon Engineering have been included in this permit modification and will be retained in the permit file.

NOTICE OF RIGHTS

Section 120.569(1), Fla. Stat. (1999), requires that "each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply." Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

Petition for Administrative Proceedings

1. A person whose substantial interests are affected by the South Florida Water Management District's (SFWMD) action has the right to request an administrative hearing on that action. The affected person may request either a formal or an informal hearing, as set forth below. A point of entry into administrative proceedings is governed by Rules 28-106.111 and 40E-1.511, Fla. Admin. Code, (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109), as set forth below. Petitions are deemed filed upon receipt of the original documents by the SFWMD Clerk.

a. Formal Administrative Hearing: If a genuine issue(s) of material fact is in dispute, the affected person seeking a formal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(1), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.201(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

b. Informal Administrative Hearing: If there are no issues of material fact in dispute, the affected person seeking an informal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(2), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.301(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

c. Administrative Complaint and Order: If a Respondent objects to a SFWMD Administrative Complaint and Order, pursuant to Section 373.119, Fla. Stat. (1997), the person named in the Administrative Complaint and Order may file a petition for a hearing no later than 14 days after the date such order is served. Petitions must substantially comply with the requirements of either subsection a. or b. above.

d. State Lands Environmental Resource Permit: Pursuant to Section 373.427, Fla. Stat., and Rule 40E-1.511(3), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), a petition objecting to the SFWMD's agency action regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands (SLERPs), must be filed within 14 days of the notice of consolidated intent to grant or deny the SLERP. Petitions must substantially comply with the requirements of either subsection a. or b. above.

e. Emergency Authorization and Order: A person whose substantial interests are affected by a SFWMD Emergency Authorization and Order, has a right to file a petition under Sections 120.569, 120.57(1), and 120.57(2), Fla. Stat., as provided in subsections a. and b. above. However, the person, or the agent of the person responsible for causing or contributing to the emergency conditions shall take whatever action necessary to cause immediate compliance with the terms of the Emergency Authorization and Order.

f. Order for Emergency Action: A person whose substantial interests are affected by a SFWMD Order for Emergency Action has a right to file a petition pursuant to Rules 28-107.005 and 40E-1.611, Fla. Admin. Code, copies of which are attached to this Notice of Rights, and Section 373.119(3), Fla. Stat., for a hearing on the Order. Any subsequent agency action or proposed agency action to initiate a formal revocation proceeding shall be separately noticed pursuant to section g. below.

g. Permit Suspension, Revocation, Annulment, and Withdrawal: If the SFWMD issues an administrative complaint to suspend, revoke, annul, or withdraw a permit, the permittee may request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Fla. Stat., within 21 days of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-107.004(3), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

2. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the SFWMD's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by

any such final decision of the SFWMD shall have, pursuant to Rule 40E-1.511(2), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), an additional 21 days from the date of receipt of notice of said decision to request an administrative hearing. However, the scope of the administrative hearing shall be limited to the substantial deviation.

3. Pursuant to Rule 40E-1.511(4), Fla. Admin. Code, substantially affected persons entitled to a hearing pursuant to Section 120.57(1), Fla. Stat., may waive their right to such a hearing and request an informal hearing before the Governing Board pursuant to Section 120.57(2), Fla. Stat., which may be granted at the option of the Governing Board.

4. Pursuant to Rule 28-106.111(3), Fla. Admin. Code, persons may file with the SFWMD a request for extension of time for filing a petition. The SFWMD, for good cause shown, may grant the extension. The request for extension must contain a certificate that the petitioner has consulted with all other parties, if any, concerning the extension and that the SFWMD and all other parties agree to the extension.

CIRCUIT COURT

5. Pursuant to Section 373.617, Fla. Stat., any substantially affected person who claims that final agency action of the SFWMD relating to permit decisions constitutes an unconstitutional taking of property without just compensation may seek judicial review of the action in circuit court by filing a civil action in the circuit court in the judicial circuit in which the affected property is located within 90 days of the rendering of the SFWMD's final agency action.

6. Pursuant to Section 403.412, Fla. Stat., any citizen of Florida may bring an action for injunctive relief against the SFWMD to compel the SFWMD to enforce the laws of Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code. The complaining party must file with the SFWMD Clerk a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. If the SFWMD does not take appropriate action on the complaint within 30 days of receipt, the complaining party may then file a civil suit for injunctive relief in the 15th Judicial Circuit in and for Palm Beach County or circuit court in the county where the cause of action allegedly occurred.

7. Pursuant to Section 373.433, Fla. Stat., a private citizen of Florida may file suit in circuit court to require the abatement of any stormwater management system, dam, impoundment, reservoir, appurtenant work or works that violate the provisions of Chapter 373, Fla. Stat.

DISTRICT COURT OF APPEAL

8. Pursuant to Section 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

LAND AND WATER ADJUDICATORY COMMISSION

9. A party to a "proceeding below" may seek review by the Land and Water Adjudicatory Commission (FLAWAC) of SFWMD's final agency action to determine if such action is consistent with the provisions and purposes of Chapter 373, Fla. Stat. Pursuant to Section 373.114, Fla. Stat., and Rules 42-2.013 and 42-2.0132, Fla. Admin. Code, a request for review of (a) an order or rule of the SFWMD must be filed with FLAWAC within 20 days after rendition of the order or adoption of the rule sought to be reviewed; (b) an order of the Department of Environmental Protection (DEP) requiring amendment or repeal of a SFWMD rule must be filed with FLAWAC within 30 days of rendition of the DEP's order, and (c) a SFWMD order entered pursuant to a formal administrative hearing under Section 120.57(1), Fla. Stat., must be filed no later than 20 days after rendition of the SFWMD's final order. Simultaneous with filing, a copy of the request for review must be served on the DEP Secretary, any person named in the SFWMD or DEP final order, and all parties to the proceeding below. A copy of Rule 42-2.013, Fla. Admin. Code is attached to this Notice of Rights.

PRIVATE PROPERTY RIGHTS PROTECTION ACT

10. A property owner who alleges a specific action of the SFWMD has inordinately burdened an existing use of the real property, or a vested right to a specific use of the real property, may file a claim in the circuit court where the real property is located within 1 year of the SFWMD action pursuant to the procedures set forth in Subsection 70.001(4)(a), Fla. Stat.

LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION

11. A property owner who alleges that a SFWMD development order (as that term is defined in Section 70.51(2)(a), Fla. Stat. to include permits) or SFWMD enforcement action is unreasonable, or unfairly burdens the use of the real property, may file a request for relief with the SFWMD within 30 days of receipt of the SFWMD's order or notice of agency action pursuant to the procedures set forth in Subsections 70.51(4) and (6), Fla. Stat.

MEDIATION

12. A person whose substantial interests are, or may be, affected by the SFWMD's action may choose mediation as an alternative remedy under Section 120.573, Fla. Stat. Pursuant to Rule 28-106.111(2), Fla. Admin. Code, the petition for mediation shall be filed within 21 days of either written notice through mail or posting or

publication of notice that the SFWMD has or intends to take final agency action. Choosing mediation will not affect the right to an administrative hearing if mediation does not result in settlement.

Pursuant to Rule 28-106.402, Fla. Admin. Code, the contents of the petition for mediation shall contain the following information:

(1) the name, address, and telephone number of the person requesting mediation and that person's representative, if any;

(2) a statement of the preliminary agency action;

(3) an explanation of how the person's substantial interests will be affected by the agency determination; and

(4) a statement of relief sought.

As provided in Section 120.573, Fla. Stat. (1997), the timely agreement of all the parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Fla. Stat., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within 60 days of the execution of the agreement. If mediation results in settlement of the dispute, the SFWMD must enter a final order incorporating the agreement of the parties. Persons whose substantial interest will be affected by such a modified agency decision have a right to petition for hearing within 21 days of receipt of the final order in accordance with the requirements of Sections 120.569 and 120.57, Fla. Stat., and SFWMD Rule 28-106.201(2), Fla. Admin. Code. If mediation terminates without settlement of the dispute, the SFWMD shall notify all parties in writing that the administrative hearing process under Sections 120.569 and 120.57, Fla. Stat., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action.

VARIANCES AND WAIVERS

13. A person who is subject to regulation pursuant to a SFWMD rule and believes the application of that rule will create a substantial hardship or will violate principles of fairness (as those terms are defined in Subsection 120.542(2), Fla. Stat.) and can demonstrate that the purpose of the underlying statute will be or has been achieved by other means, may file a petition with the SFWMD Clerk requesting a variance from or waiver of the SFWMD rule. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have concerning the SFWMD's action. Pursuant to Rule 28-104.002(2), Fla. Admin. Code, the petition must include the following information:

(a) the caption shall read:

Petition for (Variance from) or (Waiver of) Rule (Citation)

(b) The name, address, telephone number and any facsimile number of the petitioner;

(c) The name, address telephone number and any facsimile number of the attorney or qualified representative of the petitioner, (if any);

(d) the applicable rule or portion of the rule;

(e) the citation to the statute the rule is implementing;

(f) the type of action requested;

(g) the specific facts that demonstrate a substantial hardship or violation of principals of fairness that would justify a waiver or variance for the petitioner;

(h) the reason why the variance or the waiver requested would serve the purposes of the underlying statute; and

(i) a statement of whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

A person requesting an emergency variance from or waiver of a SFWMD rule must clearly so state in the caption of the petition. In addition to the requirements of Section 120.542(5), Fla. Stat. pursuant to Rule 28-104.004(2), Fla. Admin. Code, the petition must also include:

a) the specific facts that make the situation an emergency; and

b) the specific facts to show that the petitioner will suffer immediate adverse effect unless the variance or waiver is issued by the SFWMD more expeditiously than the applicable timeframes set forth in Section 120.542, Fla. Stat.

WAIVER OF RIGHTS

14. Failure to observe the relevant time frames prescribed above will constitute a waiver of such right.

28-106.201

INITIATION OF PROCEEDINGS

(INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and

(f) A demand for relief.

28-106.301 INITIATION OF PROCEEDINGS
(NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

- (2) All petitions filed under these rules shall contain:
- (a) The name and address of each agency affected and each agency's file or identification number, if known;
 - (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
 - (c) A statement of when and how the petitioner received notice of the agency decision;
 - (d) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
 - (e) A demand for relief.

28-107.004 SUSPENSION, REVOCATION, ANNULMENT, OR WITHDRAWAL

- (3) Requests for hearing filed in accordance with this rule shall include:
- (a) The name and address of the party making the request, for purposes of service;
 - (b) A statement that the party is requesting a hearing involving disputed issues of material fact, or a hearing not involving disputed issues of material fact; and
 - (c) A reference to the notice, order to show cause, administrative complaint, or other communication that the party has received from the agency.

42-2.013 REQUEST FOR REVIEW PURSUANT TO SECTION 373.114 OR 373.217

(1) In any proceeding arising under Chapter 373, F.S., review by the Florida Land and Water Adjudicatory Commission may be initiated by the Department or a party by filing a request for such review with the Secretary of the Commission and serving a copy on any person named in the rule or order, and on all parties to the proceeding which resulted in the order sought to be reviewed. A certificate of service showing completion of service as required by this subsection shall be a requirement for a determination of sufficiency under Rule 42-2.0132. Failure to file the request with the Commission within the time period provided in Rule 42-2.0132 shall result in dismissal of the request for review.

(2) The request for review shall identify the rule or order requested to be reviewed, the proceeding in which the rule or order was entered and the nature of the rule or order. A copy of the rule or order sought to be reviewed shall be attached. The request for review shall state with particularity:

- (a) How the order or rule conflicts with the requirements, provisions and purposes of Chapter 373, F.S., or rules duly adopted thereunder;

(b) How the rule or order sought to be reviewed affects the interests of the party seeking review;

(c) The oral or written statement, sworn or unsworn, which was submitted to the agency concerning the matter to be reviewed and the date and location of the statement, if the individual or entity requesting the review has not participated in a proceeding previously instituted pursuant to Chapter 120, F.S., on the order for which review is sought;

(d) If review of an order is being sought, whether and how the activity authorized by the order would substantially affect natural resources of statewide or regional significance, or whether the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from a standpoint of agency precedent, and all the factual bases in the record which the petitioner claims support such determination(s); and

(e) The action requested to be taken by the Commission as a result of the review, whether to rescind or modify the order, or remand the proceeding to the water management district for further action, or to require the water management district to initiate rulemaking to adopt, amend or repeal a rule.

28-107.005 EMERGENCY ACTION

- (1) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency action, the agency shall summarily suspend, limit, or restrict a license.
- (2) the 14-day notice requirement of Section 120.569(2)(b), F. S., does not apply and shall not be construed to prevent a hearing at the earliest time practicable upon request of an aggrieved party.

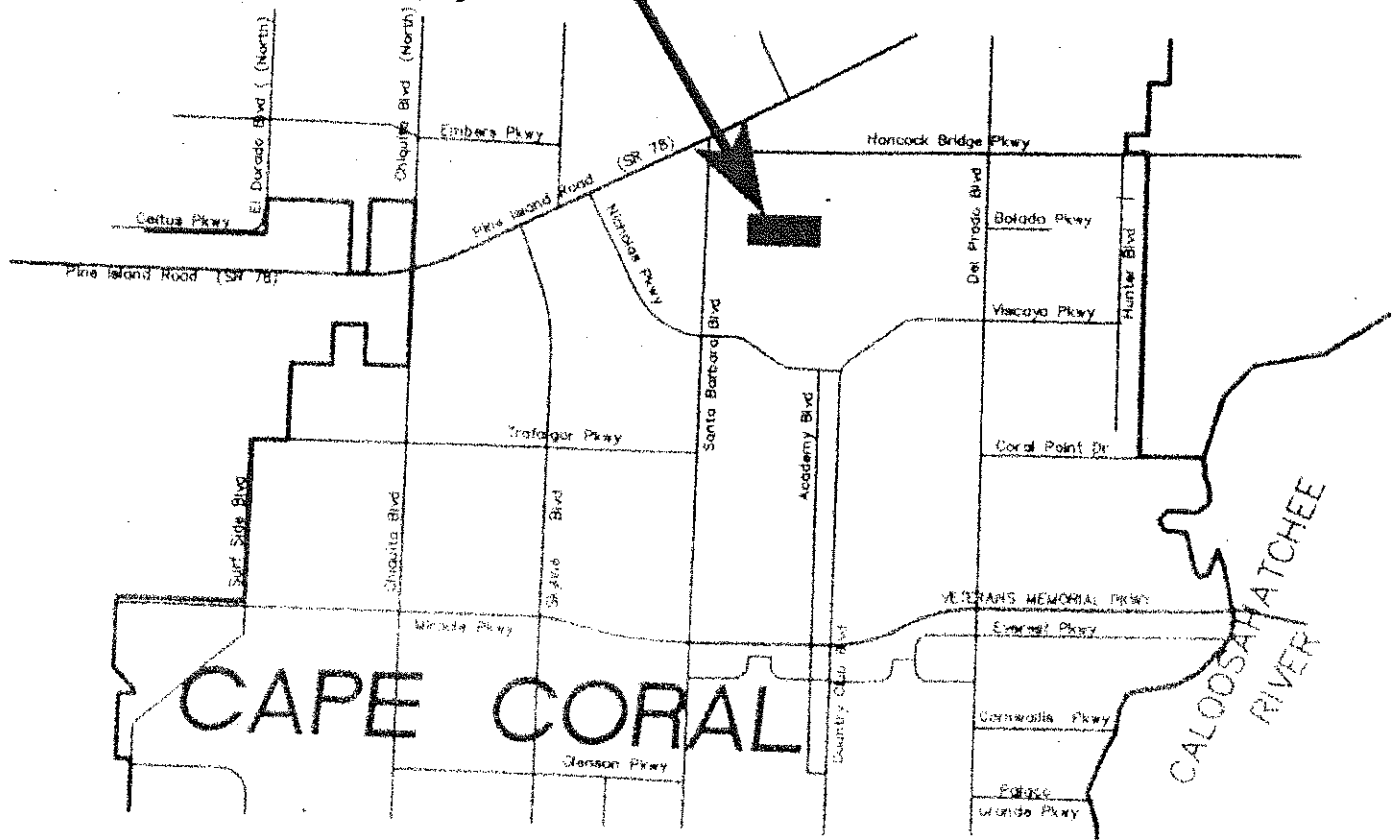
(3) Unless otherwise provided by law, within 20 days after emergency action taken pursuant to paragraph (1) of this rule, the agency shall initiate a formal suspension or revocation proceeding in compliance with Sections 120.569, 120.57, and 120.60, F.S.

40E-1.611 EMERGENCY ACTION

(1) An emergency exists when immediate action is necessary to protect public health, safety or welfare; the health of animals, fish or aquatic life; the works of the District; a public water supply, or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.

(2) The Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.

PROJECT LOCATION



LOCATION MAP

N.T.S.



PDP DATA:

LOCATION: TRACT "A" UNIT 24 P-2
 NW 1/4 OF NW 1/4 OF NE 1/4 OF NW 1/4
 24-44-23-C1-0040A.0000
 SECTION 24, TOWNSHIP 44 SOUTH RANGE 23 EAST

EXIST. ZONING: R-1B
 PROP. ZONING: R-1B (SINGLE FAMILY)
 FUTURE LAND USE: SF
 F.E.M.A. FLOOD ZONE: B
 DEVELOPMENT TYPE: SINGLE-FAMILY
 BUILDING USAGE: RESIDENTIAL
 GROSS DENSITY: 2.8 D.U./AC.
 NUMBER OF D.U.: 58
 RESIDENTIAL BUILDING HEIGHTS: 30' MAX.
 FINISH FLOOR ELEV.: VARIES-SEE SHEET 4
 CONTROL ELEVATION:

EXHIBIT 1

Last Date For Agency Action: 15-AUG-2004

GENERAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT

Project Name: Pinewood Lakes

Permit No.: 36-04982-P

Application No.: 040218-2

Application Type: Environmental Resource (New General Permit)

Location: Lee County, S24/T44S/R23E

Permittee : Pinewood Lakes Development Llc

Operating Entity : Pinewood Lakes Prop. Owners Assoc., Inc

Project Area: 20.58 acres

Project Land Use: Residential

Drainage Basin: TIDAL CALOOSAHATCHEE

Receiving Body: Tidal Caloosahatchee via Cape Coral Canal System

Class: CLASS III

Special Drainage District: NA

Conservation Easement To District : No

Sovereign Submerged Lands: No

PROJECT PURPOSE:

This application is a request for an Environmental Resource Permit authorizing Construction and Operation of a surface water management system serving a 20.58-acre residential project known as Pinewood Lakes, with discharge into waters of the Tidal Caloosahatchee via the Cape Coral Canal System.

EXHIBIT 2

PROJECT EVALUATION:

PROJECT SITE DESCRIPTION:

The 20.58 acre project site is located 600 feet east of Santa Barbara Blvd and 200 feet south S.E. 8th Street in Cape Coral. A location map is attached as Exhibit 1. The existing average site elevation is 11.0 feet NGVD. There are no permitted surface water management facilities within the project area.

There are no wetlands located within or affected by the proposed project. The rectangular-shaped site is comprised mainly (55%) of semi-improved pasture land and pine flatwoods. Approximately half of the pine flatwood areas are infested by melaluca to some extent. The remainder of the site is infested with exotics to varying degrees. Three areas where soil has been excavated have been designated as other surface waters (OSWs). These OSWs are located along the northern boundary of the site and spoil heaps are located adjacent to the OSWs.

PROPOSED PROJECT:

The proposed 20.58 project consist of constructing 58 residential lots, a looped access road, a 1.59 acre lake, catch basins and culverts. The run-off from the residential lots and the looped access road is conveyed via swales, catch basins and culverts to the 1.59 acre lake which provides the water quality volume of 1.72 acre feet or 1 inch over the 20.58 acre project site. Attenuation is accomplished in the 1.59 acre lake by routing the discharge through control structure CS-1 which limits the maximum discharge rate to 2.06 cfs during the 25 year 3 day design storm event which is equal to 0.1 cfs per acre.

LAND USE:

**Construction:
Project:**

	This Phase	Total Project	
Building Coverage	3.99	3.99	acres
Lake	1.59	1.59	acres
Pavement	5.56	5.56	acres
Pervious	9.44	9.44	acres
Total:	20.58	20.58	

WATER QUANTITY:

Discharge Rate :

As shown in the table below, the projects peak discharge rate of 2.06 cfs during the 25 year 3 day design storm event is equal to the maximum allowable limit of 0.10 cfs/acre over the 20.58 acre project site.

Discharge Storm Frequency : 25 YEAR-3 DAY

Design Rainfall : 11.2 inches

Basin	Allow Disch (cfs)	Method Of Determination	Peak Disch (cfs)	Peak Stage (ft, NGVD)
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Basin	Allow Disch (cfs)	Method Of Determination	Peak Disch (cfs)	Peak Stage
SINGLE BASIN	2.06	Discharge Formula	2.06	13.39

Finished Floors :

Building Storm Frequency : 100 YEAR-3 DAY Design Rainfall : 14.2 inches

Basin	Peak Stage (ft, NGVD)	Proposed Min. Finished Floors (ft, NGVD)	FEMA Elevation (ft, NGVD)
SINGLE BASIN	14.32	14.32	N/A

Road Design :

Road Storm Frequency : 5 YEAR-1 DAY Design Rainfall: 5.6 inches

Basin	Peak Stage (ft, NGVD)	Proposed Min. Road Crown (ft, NGVD)
SINGLE BASIN	12.02	12.02

Control Elevation :

Basin	Area (Acres)	Ctrl Elev (ft, NGVD)	WSWT Ctrl Elev (ft, NGVD)	Method Of Determination
SINGLE BASIN	20.58	10/10	10.00	Adjacent Canal Control Elevation

Receiving Body :

Basin	Str.#	Receiving Body
Single Basin	CS-1	CAPE CORAL CANAL SYSTEM
Single Basin	CS-1	

Discharge Structures: Note: The units for all the elevation values of structures are (ft, NGVD)

Weirs:

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Elev.
SINGLE BASIN	CS-1	1	V-Notch	.7'	.7'			11 (crest)

Water Quality Structures: Note: The units for all the elevation values of structures are (ft, NGVD)

Bleeders:

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Invert Angle	Invert Elev.
SINGLE BASIN	CS-1	1	Circular Orifice				.25'		10

WATER QUALITY :

The run-off from the residential lots and the looped access road is conveyed via swales, catch basins and culverts to the 1.59 acre lake which provides the required water quality volume of 1.72 acre feet or 1 inch over the 20.58 acre project site. Attenuation is accomplished in the 1.59 acre lake by routing the discharge through control structure CS-1 which limits the maximum discharge rate to 2.06 cfs during the 25 year 3 day design storm event which is equal to 0.1 cfs per acre. An Erosion Control and Stormwater

Pollution Prevention Plan will be used during construction activities and an Urban Stormwater Management Plan Program will be implemented in post development as exhibited in the Pinewood Lakes Homeowner's Association Documents. No adverse water quality impacts are anticipated as a result of the proposed project.

Basin	Treatment Method		Vol Req.d (ac-ft)	Vol Prov'd (ac-ft)
SINGLE BASIN	Treatment	Wet Detention	1.72	1.72

Endangered Species:

The project site does not contain preferred habitat for wetland-dependent endangered or threatened wildlife species or species of special concern. No wetland-dependent endangered/threatened species or species of special concern were observed onsite, and submitted information indicates that potential use of the site by such species is minimal. This permit does not relieve the applicant from complying with all applicable rules and any other agencies' requirements if, in the future, endangered/threatened species or species of special concern are discovered on the site.

CERTIFICATION AND MAINTENANCE OF THE WATER MANAGEMENT SYSTEM:

It is suggested that the permittee retain the services of a Professional Engineer registered in the State of Florida for periodic observation of construction of the surface water management (SWM) system. This will facilitate the completion of construction completion certification Form #0881 which is required pursuant to Section 10 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, and Rule 40E-4361(2), Florida Administrative Code (F.A.C.).

Pursuant to Chapter 40E-4 F.A.C., this permit may not be converted from the construction phase to the operation phase until certification of the SWM system is submitted to and accepted by this District. Rule 40E-4.321(7) F.A.C. states that failure to complete construction of the SWM system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization unless a permit extension is granted.

For SWM systems permitted with an operating entity who is different from the permittee, it should be noted that until the permit is transferred to the operating entity pursuant to Rule 40E-1.6107, F.A.C., the permittee is liable for compliance with the terms of this permit.

The permittee is advised that the efficiency of a SWM system will normally decrease over time unless the system is periodically maintained. A significant reduction in flow capacity can usually be attributed to partial blockages of the conveyance system. Once flow capacity is compromised, flooding of the project may result. Maintenance of the SWM system is required to protect the public health, safety and the natural resources of the state. Therefore, the permittee must have periodic inspections of the SWM system performed to ensure performance for flood protection and water quality purposes. If deficiencies are found, it is the responsibility of the permittee to correct these deficiencies in a timely manner.

RELATED CONCERNS:

Water Use Permit Status:

The applicant has indicated that reclaimed water will be used as a source for irrigation water for the project.

The applicant has indicated that dewatering is not required for construction of this project.

This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation, unless the work qualifies for a No-Notice Short-Term Dewatering permit pursuant to Chapter 40E-20.302(3) or is exempt pursuant to Section 40E-2.051, FAC.

Historical/Archeological Resources:

The District has received correspondence from the Florida Department of State, Division of Historical Resources indicating that the agency has no objections to the issuance of this permit.

DCA/CZM Consistency Review:

The District has not received a finding of inconsistency from the Florida Department of Environmental Protection or other commenting agencies regarding the provisions of the federal Coastal Zone Management Plan.

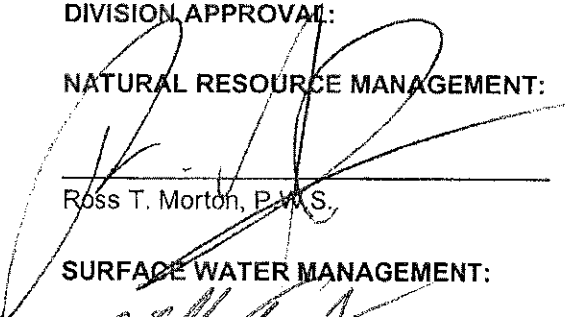
Enforcement:

There has been no enforcement activity associated with this application.

STAFF REVIEW:

DIVISION APPROVAL:

NATURAL RESOURCE MANAGEMENT:



Ross T. Morton, P.W.S.

DATE: 7/14/04

SURFACE WATER MANAGEMENT:



William Foley, P.E.

DATE: 7/14/04

STAFF REPORT DISTRIBUTION LIST

PINEWOOD LAKES

Application No: 040218-2

Permit No: 36-04982-P

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- X Engr Consultant - Avalon Engineering Inc

GOVERNMENT AGENCIES

- X Div of Recreation and Park - District 8 - FDEP
- X FDEP
- X Florida Fish & Wildlife Conservation Commission -
Bureau of Protected Species Mgmt
- X Lee County - Development Services Director
- X Lee County Engineer

OTHER INTERESTED PARTIES

- X Audubon of Florida - Charles Lee
- X League of Women Voters of Lee County - Clara Anne
Graham Elliott
- X S.W.F.R.P.C. Marisa Morr
- X Water Management Institute - Michael N. Vanatta

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