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DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS
 FOR LANSING ISLAND SUBDIVISION, PHASE ONE

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PREPARED BY:
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 Satellite Beach, FL 32937

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DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS
FOR LANSING ISLAND SUBDIVISION, PHASE ONE

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DECLARATION OF COVENANTS, RESTRICTIONS, AND
EASEMENTS FOR LANSING ISLAND SUBDIVISION, PHASE ONE

THIS DECLARATION is made and executed this _____ day of _____, 1989 by LANSING ISLAND DEVELOPMENT CORP., a Florida corporation, and David T. McWilliams, Trustee (hereinafter referred to as the "DEVELOPER").

WITNESSETH:

WHEREAS, DEVELOPER is the record owner in fee simple title to certain real property situate in Brevard County, Florida, which is legally described as follows, to wit:

(SEE ATTACHED EXHIBIT A)

hereinafter referred to as the "SUBJECT PROPERTY", also known as LANSING ISLAND SUBDIVISION, PHASE ONE, OR LANSING ISLAND; and

WHEREAS, DEVELOPER anticipates that real property adjacent to the SUBJECT PROPERTY, as described in Exhibit B hereto and referred to as "ADDITIONAL PROPERTY" may eventually be submitted to this DECLARATION and made a part of the SUBJECT PROPERTY which may thereafter be referred to as LANSING ISLAND; and

WHEREAS, DEVELOPER intends that the SUBJECT PROPERTY be subdivided, developed, improved, occupied, used, and enjoyed as an exclusive, unique, and attractive single family residential community of the highest quality and order; and

WHEREAS, DEVELOPER desires to insure that the SUBJECT PROPERTY is subdivided, developed, improved, occupied, used, and enjoyed pursuant to a uniform plan of development with consistently high architectural, ecological, environmental, and aesthetic standards so as to create a unique, pleasant, attractive, and harmonious physical environment which will contribute to and enhance the quality of life for all residents of and visitors to LANSING ISLAND; and

WHEREAS, DEVELOPER desires that the lands within and comprising LANSING ISLAND SUBDIVISION, PHASE ONE shall be initially subject to these uniform covenants, restrictions, and easements; and

WHEREAS, DEVELOPER has caused to be incorporated under the laws of the State of Florida a corporation not for profit LANSING ISLAND HOMEOWNERS ASSOCIATION, INC. for the purposes of exercising the functions aforesaid, which corporation is NOT intended to be a condominium association within the meaning of the Florida Condominium Act, Chapter 718 of the Florida Statutes and as amended from time to time;

NOW, THEREFORE, for and in consideration of the premises hereof, DEVELOPER does hereby declare that the SUBJECT PROPERTY shall be and is hereby encumbered by and made subject to those covenants, restrictions, and easements hereinafter set forth; to wit:

ARTICLE I

DEFINITIONS

For purposes of this DECLARATION, the following terms shall have the following definitions and meanings:

- 1.1 ARCHITECTURAL REVIEW BOARD (ARB) shall mean and be defined as the committee created and established by and pursuant to this DECLARATION which is responsible for the review and approval of all plans, specifications, and other materials describing or depicting IMPROVEMENTS proposed to be constructed on any LOT, and also responsible for the administration of those provisions of Article XII of this DECLARATION involving Architectural and Landscape Control.
- 1.2 ARCHITECTURAL STANDARDS MANUAL shall mean and be defined as that document or those documents adopted, promulgated, and published by the ARCHITECTURAL REVIEW BOARD, as the same shall be amended from time to time, setting forth Architectural and Landscape Design Standards, specifications, and other criteria to be used as the standard for determining compliance with this DECLARATION and the acceptability of those components of buildings, structures, landscaping, and all other IMPROVEMENTS constructed, erected, placed, or installed upon any LOT as more particularly provided in Article XII of this DECLARATION.
- 1.3 ARTICLES mean the Articles of Incorporation of the ASSOCIATION.
- 1.4 ASSESSMENT shall mean and be defined as any assessment of an OWNER and a LOT by the ASSOCIATION for COMMON EXPENSES and other items and which an OWNER may be required to pay to the ASSOCIATION pursuant to, in accordance with, and for the purposes specified in Article IX of this DECLARATION.
- 1.5 ASSOCIATION shall mean and be defined as LANSING ISLAND HOMEOWNERS ASSOCIATION, INC., a corporation not-for-profit, organized and existing under the laws of the State of Florida as set forth in this DECLARATION.
- 1.6 BOARD means the Board of Directors of the ASSOCIATION.

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- 1.7 **BRIDGE** shall mean and be defined as the access bridge, including associated structures, mechanics, and associated appendices constructed over The Flamingo Waterway (also known as The Grand Canal) and all rights-of-way of the access bridge to LANSING ISLAND.
- 1.8 **BY-LAWS** means the By-Laws of the ASSOCIATION as amended from time to time.
- 1.9 **CITY** shall mean and be defined as The City of Indian Harbour Beach, a municipal corporation of the State of Florida, specifically including each and all of its departments and agencies.
- 1.10 **COMMON EXPENSES** shall mean and be defined as all expenses of any kind or nature whatsoever properly incurred by the ASSOCIATION, for the use and benefit of the SUBJECT PROPERTY and more particularly identified and described in Section 9.2 of this DECLARATION.
- 1.11 **COMMON PROPERTY** shall mean and be defined as all real and personal property, whether improved or unimproved, from time to time owned or maintained by the ASSOCIATION for the common use, enjoyment, and benefit of all OWNERS, including, with limitation, entranceways, bridges, nature preserves, recreational facilities, docks, marine facilities, canal bottomlands, waterways, the utilities, the COMMON STREETS AND ROADS, the BRIDGE, the SURFACE WATER MANAGEMENT SYSTEM, and such other portions of the SUBJECT PROPERTY as are conveyed to the ASSOCIATION by the DEVELOPER pursuant to and as more particularly provided in Article VIII of this DECLARATION or declared by the DEVELOPER from time to time as COMMON PROPERTY, provided that the foregoing shall not be deemed a representation or warranty that all of the foregoing types of common areas will be provided.
- 1.12 **COMMON STREETS AND ROADS** shall mean and be defined as the rights-of-way and all easements of all streets, roads, drives, courts, ways, and cul-de-sacs within LANSING ISLAND as the same are described in and depicted on the PLAT, and all paving, curbs, pavers, planters, bridges, and other IMPROVEMENTS, facilities, and appurtenances located therein, including street lights, utility lines, irrigation systems, and landscaping which are conveyed by the DEVELOPER or any OWNER to the ASSOCIATION as COMMON PROPERTY pursuant to the provisions of ARTICLE VIII of this DECLARATION; but specifically not including, however, the right-of-way to any street and all pavement and curbs which have been dedicated to the COUNTY or the CITY as a public thoroughfare pursuant to the PLAT.
- And also not including such utility lines as are located within such rights-of-way as may be owned by private or public utility companies or governmental agencies from time to time providing utility services to LANSING ISLAND, including, without limitation, water lines of the City of Melbourne, electric power lines of Florida Power & Light Corporation, telephone lines of Southern Bell Telephone Company of Florida, and natural gas lines of City Gas Corporation of Florida, sewer lines and associated apparatus of Brevard County, and T.V. cable lines.
- 1.13 **COMMON SURPLUS** means the excess of all receipts of the ASSOCIATION over the amount of the COMMON EXPENSES.
- 1.14 **COUNTY** shall mean and be defined as Brevard County, a political subdivision of the State of Florida, specifically including each and all of its departments and agencies.
- 1.15 **DECLARATION** shall mean and be defined as this properly executed Declaration of Covenants, Restrictions, and Easements for LANSING ISLAND, and all amendments thereto and modifications thereof as are from time to time recorded among the Public Records of the COUNTY.
- 1.16 **DEVELOPER** means LANSING ISLAND DEVELOPMENT CORP. who is executing this DECLARATION, or any PERSON who may be assigned the rights of DEVELOPER pursuant to a written assignment executed by the then present DEVELOPER recorded in the public records of the COUNTY. In addition, in the event any PERSON who obtains title to all the SUBJECT PROPERTY then owned by DEVELOPER as a result of the foreclosure of any mortgage or deed in lieu thereof, such PERSON may elect to become the DEVELOPER by a written election recorded in the public records of the COUNTY and, regardless of the exercise of such election, such PERSON may appoint as DEVELOPER any third party who acquires title to all or any portion of the SUBJECT PROPERTY by written appointment recorded in the Public Records recorded in the COUNTY.
- In any event, any subsequent DEVELOPER shall not be liable for any defaults or obligations incurred by any prior DEVELOPER, except as same may be expressly assumed by the subsequent DEVELOPER.
- 1.17 **GOVERNMENTAL REGULATIONS** shall mean and be defined as all applicable laws, statutes, codes, ordinances, rules, regulations, limitations, restrictions, orders, judgments, or other requirements of any governmental authority having jurisdiction over the SUBJECT PROPERTY or any IMPROVEMENTS constructed or located thereon, including, without limitation, those pertaining to building and zoning.
- 1.18 **IMPROVEMENTS** shall mean, be defined as, and include any buildings, outbuildings, structures, driveways, walkways, swimming pools, patios, decks, fences, walls, landscaping, boat houses, docks, and any and all other appurtenances, facilities, structures, and improvements of any kind, nature, or description constructed, erected, placed, installed, or located on any LOT, and any replacements thereof, and all additions, alterations, or maintenance thereto.

- 1.19 INSTITUTIONAL LENDER shall mean, be defined as, and include, but not limited to:
- a. any State or Federal savings bank, commercial bank, savings and loan association, any real estate investment trust, any insurance company, any mortgage banking company, an agency of the United States or any other governmental authority, any mortgage company, and pension and/or profit sharing plan, or any other lending or investing institution generally and customarily recognized as being engaged, in the ordinary course of its business, in making, holding, insuring, or guaranteeing first lien priority real estate mortgage loans, and
 - b. the DEVELOPER, to the extent that the DEVELOPER shall hold a mortgage upon any portion of the SUBJECT PROPERTY, and all successors, assigns, assignees, and transferees of DEVELOPER who shall own or hold any mortgage upon the SUBJECT PROPERTY or any portion thereof which was originally executed and delivered to and owned and held by DEVELOPER, and
 - c. any individual, corporation, or partnership making, holding, or guaranteeing first or less lien priority purchase money real estate mortgage loans.
- 1.20 LANSING ISLAND shall mean and be defined as Lansing Island Subdivision, the single family residential community planned for and developed on the SUBJECT PROPERTY as reflected on the PLAT, including all LOTS and COMMON PROPERTY as those terms and such properties are defined and described in this DECLARATION and on the PLAT.
- 1.21 LOT shall mean and be defined as a separate single family residential building site within the SUBJECT PROPERTY as the same is subdivided and described pursuant to and in accordance with the PLAT, and shall include any IMPROVEMENTS from time to time constructed, erected, placed, installed, or located thereon.
- 1.22 MASTER ASSOCIATION means a non-profit corporation, other than the ASSOCIATION, which is formed to administer a declaration of covenants and restrictions or similar declaration affecting any portion of the SUBJECT PROPERTY, and whose members consist of the associations of the property affected by any such declaration. For purposes of this DECLARATION, the SUBJECT PROPERTY affected by any such declaration shall be deemed to be operated by, and subject to the jurisdiction of, the respective association.
- 1.23 OWNER shall mean and be defined as one or more PERSONS or entities who or which are alone or collectively the record owner of fee simple title to any LOT, parcel, piece, or tract of land within LANSING ISLAND, including the DEVELOPER and his successors and assigns, but excluding those having an interest in any such LOT, parcel, piece, or tract of land merely as security for the payment of a debt or the performance of an obligation.
- 1.24 PERSON means an individual, corporation, partnership, trust, or any other legal entity.
- 1.25 PLAT shall mean and be defined as the plat of LANSING ISLAND which shall initially consist of Phase One as recorded in Plat Book 36, at Pages 13 through , inclusive, the Public Records of Brevard County, Florida, and all future recorded plats of additional phases of the SUBJECT PROPERTY.
- 1.26 RESIDENTIAL PROPERTY shall include all LOTS shown on the PLAT and designated in this DECLARATION for use as single family residential home sites.
- 1.27 RULES AND REGULATIONS shall include additional reasonable rules and regulations adopted by the ASSOCIATION relating to the use, enjoyment, and maintenance of LANSING ISLAND.
- 1.28 SUBJECT PROPERTY shall mean all lands and improvements thereto included within and comprising LANSING ISLAND, which are initially described on Page B of this DECLARATION, on Exhibit "A" attached hereto, and also described and depicted on the PLAT, and as is amended, added to, or modified from time to time, subject to Article IV of this DECLARATION.
- 1.29 SUBDIVISION shall mean the SUBJECT PROPERTY as depicted on the PLAT.
- 1.30 SURFACE WATER MANAGEMENT SYSTEM shall mean and be defined as all land, easements, and other facilities and appurtenances which together constitute and comprise the master surface water management and drainage system of LANSING ISLAND as reflected on the plans therefor on file with and approved by the CITY and St. Johns River Water Management District, which are conveyed by the DEVELOPER to the ASSOCIATION as COMMON PROPERTY pursuant to the provisions of Article VIII of this DECLARATION, or otherwise dedicated to the ASSOCIATION as COMMON PROPERTY pursuant to the PLAT.
- SURFACE WATER MANAGEMENT SYSTEM shall also include all lands included within and comprised of additional contiguous phases as described in additional plats as recorded in the Public Records of Brevard County, Florida.
- 1.31 UNIT means the residential dwelling constructed upon a LOT.

ARTICLE II
OBJECTS AND PURPOSES

The covenants, restrictions, and easements set forth in this DECLARATION are hereby imposed upon the SUBJECT PROPERTY for the following objects and purposes; to wit:

- a. To establish LANSING ISLAND as the premier single family residential community in the area;
- b. To create, develop, foster, maintain, preserve, and protect within LANSING ISLAND a unique, pleasant, attractive, and harmonious physical environment which will contribute to and enhance the quality of life for all residents of and visitors to LANSING ISLAND;
- c. To ensure that the development of LANSING ISLAND will proceed pursuant to a uniform plan of development with consistently high architectural, environmental, ecological, and aesthetic standards;
- d. To ensure the proper and appropriate subdivision, development, improvement, occupation, use, and enjoyment of each LOT within LANSING ISLAND;
- e. To protect each LOT within LANSING ISLAND against the improper, undesirable, unattractive, or inappropriate subdivision, development, improvement, occupation, use, and enjoyment of contiguous, adjacent, or neighboring LOTS
- f. To encourage the development, construction, maintenance, and preservation of architecturally and aesthetically attractive and harmonious improvements appropriately designed for and properly located on each LOT within LANSING ISLAND;
- g. To guard against the development and construction of improper, undesirable, unattractive, or inappropriate improvements and the use of improper, undesirable, unsuitable or unsightly materials;
- h. To provide for the future ownership, management, administration, improvement, care, maintenance, use, regulation, preservation, and protection of all COMMON PROPERTY within LANSING ISLAND, specifically including the COMMON STREETS AND ROADS, SURFACE WATER MANAGEMENT SYSTEM, and the BRIDGE, and to provide for and assure the availability of the funds required therefor;
- i. To provide for the establishment, maintenance, preservation, protection, and enhancement of consistently high property values within LANSING ISLAND;
- j. To accomplish, meet, satisfy, and fulfill certain GOVERNMENTAL REGULATIONS and other governmental requirements, specifically including those of the St. Johns River Water Management District, the United States Coast Guard, and the CITY.
- k. To provide DEVELOPER with effective control over the development, management, administration, care, maintenance, use, appearance, marketing and sale, and the construction of IMPROVEMENTS upon the SUBJECT PROPERTY.
- l. In general, to provide for the development, creation, operation, and preservation upon the SUBJECT PROPERTY of an exclusive single family community of the highest quality and order.
- m. To provide aesthetically attractive and useful COMMON AREAS for all OWNERS' use and enjoyment.

ARTICLE III
EFFECT OF DECLARATION

- 3.1 **Covenants Running with Land.** This DECLARATION and each and every one of the covenants, restrictions, and easements contained herein are hereby declared to be, and shall hereafter continue as, covenants running with the title to those portions of the SUBJECT PROPERTY upon which the same are hereby imposed as an encumbrance.
- 3.2 **Property Affected.** This DECLARATION and the covenants, restrictions, and easements set forth herein shall be binding upon, inure to the benefit of, and constitute a burden upon all of the SUBJECT PROPERTY and ADDITIONAL PROPERTY as it is incorporated into this DECLARATION in accordance with the terms set forth herein. Accordingly, as more particularly specified in this DECLARATION, all LOTS, pieces, parcels, and tracts of land within the SUBJECT PROPERTY shall hereafter be owned, held, transferred, sold, conveyed, demised, devised, assigned, leased, mortgaged, occupied, used, and enjoyed subject to and benefited and burdened by the terms and provisions of this DECLARATION and each of the covenants, restrictions, and easements contained herein.
- 3.3 **Parties Affected.** Except as hereinafter specifically provided, this DECLARATION shall be binding upon and inure to the benefit of all OWNERS of the property affected and encumbered by this DECLARATION, including the DEVELOPER, the ASSOCIATION, any INSTITUTIONAL LENDERS, and all other PERSONS having or claiming any right, title, or interest in such property.

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Accordingly, each and every PERSON or party who or which shall hereafter acquire, have, or claim any right, title, or interest in or to any LOT, piece, parcel, or tract of land within the SUBJECT PROPERTY, whether by, through, or under the DEVELOPER or any subsequent OWNER, shall, by virtue of the acceptance of any such right, title, interest, or claim, whether by deed or other instrument, or by operation of law or otherwise, and whether voluntarily or involuntarily, be deemed to have acquired and accepted such right, title, interest or claim in or to any such LOT, piece, parcel, or tract of the SUBJECT PROPERTY subject to and benefited and burdened by the covenants, restrictions, and easements set forth in this DECLARATION the same as if such PERSON or party had specifically joined in and agreed and consented to each and every one of the terms and provisions of this DECLARATION and the same as if each and every one of the covenants, restrictions, and easements set forth in this DECLARATION had been fully set forth in the deed or any other instrument of conveyance pursuant to which such right, title, interest, or claim was acquired.

ARTICLE IV

PROPERTY SUBJECT TO DECLARATION

- 4.1 SUBJECT PROPERTY. The property which shall be subject to and encumbered, governed, benefitted, and burdened by this Declaration shall be all of the SUBJECT PROPERTY and ADDITIONAL PROPERTY as it is incorporated into this DECLARATION as the same is herein defined and described.
- 4.2 Addition of Property. The DEVELOPER hereby reserves to itself and shall hereafter have the right, but not the obligation, at any time and from time to time, in its sole and absolute discretion and without notice to or the approval of any party or PERSON whomsoever or whatsoever, to add ADDITIONAL PROPERTY to this DECLARATION and the ADDITIONAL PROPERTY will be included within the SUBJECT PROPERTY by an amendment to this DECLARATION or a Declaration of Covenants and Restrictions substantially similar to this DECLARATION, recorded in the Public Records of the COUNTY. Such ADDITIONAL PROPERTY specifically includes, but is not limited to, any or all the real property contiguous to the SUBJECT PROPERTY, or any property contiguous or across any canal, roadway, or BRIDGE from such property, or which is now or may hereafter be owned by the DEVELOPER. Such ADDITIONAL PROPERTY shall only include that property as designated and developed for single family use and shall be subject to the same or substantially similar restrictions. Any amendment or Declaration of Covenants and Restrictions adding any property to this DECLARATION need only be signed by the DEVELOPER if such property is owned by the DEVELOPER, and if the property is not owned by the DEVELOPER, such amendment need only be signed by the DEVELOPER and the owner of such property.
- 4.3 Withdrawal of Property. The DEVELOPER hereby reserves unto itself and shall hereafter have the right, at any time and from time to time, in its sole and absolute discretion, and without notice to or the approval of any other PERSON or party whomsoever or whatsoever, to withdraw any property, including portions of the SUBJECT PROPERTY and ADDITIONAL PROPERTY, from the purview, operation, and effect of this DECLARATION, including any property previously subjected to and encumbered by this DECLARATION, which shall be owned by the DEVELOPER at the time of such withdrawal, by the filing of an appropriate instrument to that effect among the Public Records of the COUNTY.

ARTICLE V

PERMITTED USES

- 5.0 Generally. To the extent that a particular use shall otherwise be in compliance with GOVERNMENTAL REGULATIONS and the covenants, restrictions, and easements set forth in this DECLARATION, the following uses shall be permitted on the SUBJECT PROPERTY:
- 5.1 RESIDENTIAL PROPERTY. Except as hereinafter provided in Section 6.4 of this DECLARATION, RESIDENTIAL PROPERTY shall be any LOT improved as and used, occupied, and enjoyed solely and exclusively for single family residential dwelling purposes and no other uses or purposes whatsoever.
- 5.2 COMMON PROPERTY. COMMON PROPERTY shall be improved, maintained, used, and enjoyed for the common recreation, health, safety, welfare, benefit, and convenience of all OWNERS of LANSING ISLAND and their guests and invitees. Notwithstanding anything to the contrary set forth in this DECLARATION, however, the DEVELOPER, for himself and his successors and assigns and his guests or invitees, hereby specifically reserves unto himself an easement upon and the right, privilege, and license of using any or all of the COMMON PROPERTY, including, without limitation, any and all common utilities, COMMON STREETS AND ROADS, and BRIDGE, in connection with and in support of any operations and activities and any amateur or professional events conducted upon the COMMON PROPERTY, including specifically, without limitation, the right, privilege, license, and easement to limit, control, restrict, or permit, by ticket, pass, or otherwise, ingress or egress to and from the COMMON PROPERTY, including the COMMON STREETS AND ROADS and BRIDGE; provided, however, that the exercise of such right, privilege, license, and easement by the DEVELOPER and his successors and assigns shall not prohibit or unreasonably interfere with or restrict the right, privilege, license, and easement of an OWNER and the members of his or her family, his or her employees, guests, and other invitees to have ingress and egress to and from his or her residence as elsewhere provided in this DECLARATION.

ARTICLE VI

USE RESTRICTIONS - RESIDENTIAL PROPERTY

The use, occupation, and enjoyment of any LOT shall be subject to and governed by the following covenants, conditions, and restrictions, to wit:

- 6.1 Single Family Only. Except as specifically provided in this DECLARATION, no use shall be made of any LOT other than for single family residential dwelling purposes, with only one UNIT constructed on any LOT.
- 6.2 Ownership and Leasing. Ownership of any LOT shall be for single family residential dwelling purposes only. Accordingly, RESIDENTIAL PROPERTIES may not be rented or leased for any single period of less than six (6) months. No "Time Sharing Plan" as that term is defined in Section 721.05 Florida Statutes, or any similar plan of fragmented or interval ownership of any LOT shall be permitted.
- 6.3 Subdivision. No LOT shall be subdivided nor shall any portion of a LOT less than the whole thereof be sold, conveyed, or transferred without the prior written approval and consent of the DEVELOPER and the ASSOCIATION. Nothing herein contained, however, shall prevent the subdivision of a LOT by the DEVELOPER in such manner that any portion of a LOT may be sold, transferred, and conveyed by the DEVELOPER, together with the whole of an adjacent or contiguous LOT such that the whole of one LOT and a portion of another LOT which are owned in common by the same OWNER may be combined, developed, and improved by such OWNER as a single unified home site. Once so combined, developed, and improved as a single unified residential home site, no such combination of a LOT and a portion of another LOT or combination of two (2) or more LOTS shall thereafter be re-subdivided into more than one (1) single family residential home site.
- 6.4 Commercial Activity. Except as specifically provided in Section 5.1 of this DECLARATION, no business, commercial, industrial, trade, professional, or other non-residential activity or use of any nature, type, kind, or description shall be conducted upon or from any LOT or within any IMPROVEMENTS located or constructed thereon. This provision shall not prohibit those minor business-related activities which might occur within the confines of any LOT which are incidental to the OWNER's primary business and do not create any offensive activity, or promote deliveries or other excessive public access to the SUBJECT PROPERTY, or which may be promoted for tax benefits or other reasons of convenience. The ASSOCIATION may prohibit any business-related activity it deems to be an offensive activity or a violation of this Paragraph.
- 6.5 Offensive Activity. No illegal, noxious, unpleasant, unsightly, noisy, or offensive activity shall be carried on or conducted upon or from any LOT nor shall anything be done thereon which may be or tend to become or cause an unreasonable annoyance or nuisance, whether public or private, to residents in the immediate vicinity or to LANSING ISLAND in general or which may be or tend to become an interference with the comfortable and quiet use, occupation, or enjoyment of any other any LOT or any COMMON PROPERTY, unless specifically approved in writing by the ASSOCIATION.
- 6.6 Animals and Pets. No reptiles, livestock, poultry, or animals of any kind, nature, or description shall be kept, bred, or raised upon SUBJECT PROPERTY unless specifically approved in writing by the ASSOCIATION, except for dogs, cats, birds, or other usual and customary household pets which may be kept, raised, and maintained upon SUBJECT PROPERTY, provided that the same are not kept, raised, or maintained thereon for business or commercial purposes, or in number deemed unreasonable by the DEVELOPER or the ASSOCIATION in the exercise of their reasonable discretion. Numbers in excess of three (3) of each such type of household pet, or a total of six (6) (other than aquarium-kept tropical fish) shall be prima facie and considered unreasonable.

Notwithstanding the foregoing provisions of this Section permitting dogs, cats, birds, or other usual and customary household pets, however, no such reptiles, animals, birds, or other pets may be kept, raised, or maintained on SUBJECT PROPERTY under circumstances which, in the good faith judgment of the DEVELOPER or the ASSOCIATION, shall constitute an unreasonable annoyance or nuisance to the residents in the vicinity or an unreasonable interference with the comfortable and quiet use, occupation, and enjoyment of other SUBJECT PROPERTY or adjoining COMMON PROPERTY.

Any pet must be carried or kept on a leash when outside a UNIT or fenced-in area. Each OWNER shall be responsible for his pets and the pets of any PERSON residing in his UNIT. Any resident shall pick up and remove any solid animal waste deposited by his pet on the COMMON PROPERTY or on other RESIDENTIAL PROPERTY, except in designated pet-walk areas, if any. The ASSOCIATION may require any pet to be immediately and permanently removed from the SUBJECT PROPERTY due to a violation of this Paragraph, or may seek other remedies as provided in this DECLARATION.

The ASSOCIATION may grant written permission allowing any OWNER to keep on any LOT other animals not specifically permitted herein. Permission may be withdrawn at any time and may have specific restrictions placed on it by the ASSOCIATION, which may be modified by the ASSOCIATION from time to time at its sole discretion.

6.7 Commercial and Recreational Vehicles.

6.7.1 Parking of Vehicles. No truck, bus, trailer, or other "commercial vehicle" (as that term is herein defined in Section 6.7.6), and no mobile home, motor home, house trailer, camper, boat, boat trailer, horse trailer, or other recreational vehicle or the like shall be permitted to be parked or stored on the SUBJECT PROPERTY unless the same shall be parked or stored entirely within and fully enclosed by a garage; nor shall any such commercial or recreational vehicle or the like be permitted to be parked or stored on any street in front of or adjacent to any LOT. Notwithstanding the foregoing, however, it is expressly provided that recreational and commercial vehicles shall be permitted to be parked on, or in front of, or adjacent to any LOT on which bona fide ongoing construction activity is taking place; nor shall the foregoing provision of this Paragraph apply to parking on "a temporary or short-term basis" (as that term is hereinafter defined in Paragraph 6.7.4).

6.7.2 Repair of Vehicles. No passenger automobile, commercial, recreational, or other motorized vehicle, or trailerable boat, or the like, shall be dismantled, serviced, rebuilt, repaired, or repainted outside any UNIT. Notwithstanding the foregoing provisions of this Paragraph, however, it is expressly provided that the foregoing restriction shall not be deemed to prevent or prohibit those activities normally associated with and incident to the day-to-day washing, waxing, and polishing of such vehicles or such repairs as may be necessary in an emergency situation. Repairs, service, or painting made within the confines of a garage or designated enclosure may be denied by the ASSOCIATION if deemed a nuisance by the ASSOCIATION.

No moored boat or the like, whether commercial or recreational, shall be dismantled, rebuilt, or have other major repair work done on or adjacent to any LOT. Any repairs, maintenance, service, or painting done to any moored boat or the like may be denied by the ASSOCIATION if deemed a nuisance by the ASSOCIATION.

6.7.3 Motorcycles, etc. No motorcycle, motor scooter, moped, ATV (all terrain vehicle), or other two-wheeled, three-wheeled, or four-wheeled motorized vehicle, or the like, shall be permitted to be parked or stored on any LOT, unless outfitted with an appropriate noise reduction device which is in working order.

The same shall be parked or stored entirely within, and fully enclosed by, a garage; except for those which may be used or employed in connection with the internal security of LANSING ISLAND and the maintenance and operation of the COMMON PROPERTY or for sales and promotion of the SUBJECT PROPERTY by the DEVELOPER.

Notwithstanding, the foregoing provisions of this Paragraph permitting motorcycles, motor scooters, mopeds, ATVs (all terrain vehicle), or other two-wheel, three-wheel, or four-wheel motorized vehicles or the like with an appropriate noise reduction device, no such vehicle shall be allowed on the SUBJECT PROPERTY under circumstances which, in the good faith judgement of the DEVELOPER or the ASSOCIATION, shall constitute an unreasonable annoyance or nuisance to the residents in the vicinity or an unreasonable interference with the comfortable and quiet use, occupation, and enjoyment of any other LOT or adjoining COMMON PROPERTY.

The ASSOCIATION or DEVELOPER may, at its sole discretion, grant permission for the use and storage of such vehicles, notwithstanding the foregoing provisions of this Paragraph. Such permission may be withdrawn at any time, from time to time, for any reason at the sole discretion of the ASSOCIATION or DEVELOPER. Such permission may have specific restrictions attached to it as deemed necessary by the DEVELOPER or the ASSOCIATION and any violation of those restrictions or the ASSOCIATION deeming that the vehicle is a nuisance shall be considered prima facie evidence of an automatic irrevocation and withdrawal of permission.

6.7.4 Parking on a Temporary or Short-term Basis. Parking on "a temporary or short-term basis" shall mean and be defined as parking, on a non-recurring basis and for a single period not exceeding twenty-four (24) hours in duration, of commercial or recreational vehicles belonging to guests of OWNERS, commercial vehicles used in connection with the furnishing of services and/or the routine pick-up and delivery, respectively, of materials from and to any LOT, and commercial or recreational vehicles belonging to or being used by OWNERS for loading and unloading purposes only.

The ASSOCIATION or DEVELOPER may, at their sole discretion, grant an extension in writing to any OWNER on a "temporary or short term basis". Such extension may be withdrawn at any time, from time to time, at the sole discretion of the ASSOCIATION or DEVELOPER.

Such extension may have specific restrictions attached to it as deemed necessary by the DEVELOPER or ASSOCIATION. Any violation of those restrictions will be considered prima facie evidence of automatic irrevocation and withdrawal of permission.

6.7.5 Private Passenger Vehicles. The OWNER or residents of any UNIT may not keep more than two (2) private passenger vehicles parked outside any UNIT on a permanent basis without the prior written consent of the ASSOCIATION.

All vehicles parked within the SUBJECT PROPERTY must be in an aesthetically good appearance and good working order, and no vehicle which is unlicensed or which cannot operate on its own power may be parked outside any UNIT. Any vehicle considered by the ASSOCIATION to be creating an unreasonable annoyance or in an unsightly condition may be removed by the ASSOCIATION or the ASSOCIATION may prevent access to the COMMON STREETS AND ROADS of the vehicle.

- 6.7.6 Commercial Vehicle. The term "commercial vehicle" shall mean and be defined as a truck, motor home, bus, or van of greater than three-quarter (3/4) ton capacity or as designated as such by the State of Florida Division of Motor Vehicles, and any vehicle, including a passenger automobile, with a sign displayed on any part thereof advertising any kind of business or on or within which any commercial materials and/or tools are visible.
- 6.7.7 RULES AND REGULATIONS. The ASSOCIATION shall be entitled and is hereby empowered to adopt additional reasonable RULES AND REGULATIONS governing the admission to and parking, use, and storage of private, commercial, and recreational vehicles within LANSING ISLAND and, if so adopted, the same shall be binding upon all LOTS and all OWNERS and their guests and invitees.
- 6.7.8 Removal by the ASSOCIATION. Any private, commercial, recreational, or other vehicle parked or stored in violation of these restrictions or in violation of any rules and regulations adopted by the ASSOCIATION concerning the same may be towed away or otherwise removed by or at the request of the ASSOCIATION and at the sole expense of the owner of such commercial, recreational, or other vehicle in violation of these restrictions or such RULES AND REGULATIONS.

In the event of such towing or other removal, the ASSOCIATION and its employees or agents shall not be liable or responsible to the owner of such vehicle for trespass, conversion, or damage incurred as an incident to or for the cost of such removal or otherwise; nor shall the ASSOCIATION, its employees, or agents be guilty of any criminal act or have any civil liability by reason of such towing or removal, and neither its towing or removal nor the failure of the owner of the towed or removed vehicle to receive any notice of the violation of the provisions of this Section 6.7 shall be grounds for relief of any kind.

- 6.8 Maintenance. Each LOT and all IMPROVEMENTS located thereon, including landscaping, shall at all times be kept and maintained in a safe, clean, wholesome, and attractive condition and shall not be allowed to deteriorate, fall into disrepair, or become unsafe or unsightly. In particular, no weeds, underbrush, or other unsightly growth, and no trash, rubbish, refuse, debris, or unsightly objects of any kind shall be permitted or allowed to accumulate on any LOT.
- 6.9 Reconstruction of Damaged IMPROVEMENTS. In the event that a UNIT or other IMPROVEMENTS on any LOT shall be damaged or destroyed by casualty, hazard, or other cause, including fire or windstorm, then, within a reasonable period, not exceeding one (1) month following the occurrence of the offending incident, the OWNER of the affected UNIT shall cause the damaged or destroyed IMPROVEMENTS to be repaired, rebuilt, or reconstructed, or to be removed and cleared from such LOT. Any such repair, rebuilding, or reconstruction shall be approved and accomplished as otherwise required pursuant to the provisions of this DECLARATION.
- 6.10 Garbage and Garbage Containers. All garbage and trash containers and their storage areas and the like shall be kept below ground level or placed inside of or behind opaque walls attached to and made a part of the UNIT constructed on each LOT and otherwise in conformity with the applicable provisions of the ARCHITECTURAL STANDARDS MANUAL. In no event shall any of the same be visible from any adjacent or neighboring property, whether a LOT or COMMON PROPERTY, including any of the COMMON STREETS AND ROADS. Further, all garbage and trash containers and their storage areas shall be designed and maintained so as to prevent animals from gaining access thereto.

Each OWNER shall regularly pick up all garbage, trash, refuse, or rubbish on the OWNER'S LOT. Garbage, trash, refuse, or rubbish that is required to be placed at the front of the LOT in order to be collected may be placed and kept at the front of the LOT after 5:00 p.m. on the day before the scheduled day of collection, and any trash facilities must be removed on the collection day.

All garbage, trash, refuse, or rubbish must be placed in appropriate trash facilities or bags. All containers, dumpsters, or garbage facilities shall be stored inside a UNIT or fenced-in area and screened from view and shall be kept in a clean and sanitary condition. No noxious or offensive odors shall be permitted.

- 6.11 Burning. No burning of leaves, trash, rubbish, garbage, or other waste materials of any type shall be permitted or conducted on any LOT. Nothing herein contained, however, shall be deemed to prohibit the burning of wood, logs, natural gas, or charcoal in properly constructed or installed fireplaces, barbecue cookers, or the like, whether inside or outside of any building or other structure located on any LOT.

Notwithstanding the foregoing provisions of this Paragraph, however, it is expressly provided that the foregoing restriction shall not be deemed to prevent or prohibit those activities as performed by the DEVELOPER or his agents, or contractors on the SUBJECT PROPERTY.

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6.12 Storage Tanks. No storage tanks including, but not limited to, those for water, oil, propane gas, or other liquid, fuels, or chemicals, including those used for swimming pools or the like, shall be permitted outside of any UNIT unless the same shall be underground or placed inside of walls, fences, landscaping screens, or similar type enclosures in conformity with the applicable provisions of the ARCHITECTURAL STANDARDS MANUAL. In no event shall any of the same be visible from any adjacent or neighboring property, whether a LOT or COMMON PROPERTY, including the COMMON STREETS AND ROADS and BRIDGE.

6.13 Mineral Exploitation. No exploration, mining, quarrying, or drilling for or exploitation of gas, oil, phosphate, or other minerals of any type of kind shall be permitted or conducted on the SUBJECT PROPERTY.

6.14 Laundry & Clothes Drying. No laundry or clothes drying lines or areas shall be permitted outside of any UNIT unless the same shall be placed inside of walls, fences, landscaping screens, or similar type enclosures in conformity with the applicable provisions of the ARCHITECTURAL STANDARDS MANUAL.

In no event shall any of the same be permitted if visible from any adjacent or neighboring property, LOT, or COMMON PROPERTY, including the COMMON STREETS AND ROADS and BRIDGE.

6.15 Radio Transmission Equipment. No radio, microwave, or other electronic transmission equipment, including ham radios, citizens band radios, outside antennas, satellite dishes, outside receiving or sending devices, and the like, shall be permitted on any LOT without the prior written consent of the ASSOCIATION; and such consent, once given, may be revoked by the ASSOCIATION in the event that the operation of any such equipment interferes with ordinary radio and television reception or equipment, including the LANSING ISLAND central cable television and security systems (if any) or any communication system utilized in connection with operations conducted on COMMON PROPERTY, if so provided.

6.16 Signs. No sign, billboard, or advertising of any kind shall be displayed to public view on the SUBJECT PROPERTY without the prior written consent of the ARCHITECTURAL REVIEW BOARD and the DEVELOPER; except as follows, to wit:

a. During construction of the home only, no more than one (1) discreet, professionally prepared sign of not more than five (5) square feet total, including the frame, not to exceed a height of five feet (5') above the average ground elevation, identifying the architect and general contractor responsible, respectively, for the architectural and construction of a dwelling under construction on a particular LOT; provided, however, that such sign is first approved in writing by the ARCHITECTURAL REVIEW BOARD. The sign shall be constructed of wood only, must be kept in like-new condition, and must be aesthetically pleasing, complementing the environment.

b. One discreet professionally prepared sign not exceeding four inches (4") high and eighteen inches (18") long identifying the name of the OWNER of a particular LOT.

Notwithstanding the foregoing provisions of this Section, the DEVELOPER specifically reserves the right, for himself and his agents, employees, nominees, and assigns, the right, privilege, and easement, to construct, place, and maintain upon any LOT such signs as it deems appropriate in connection with the development, IMPROVEMENTS, construction, marketing, and sale of any LOT.

Except as hereinabove provided, no signs or advertising materials displaying the names or otherwise advertising the identity of subcontractors, real estate brokers, or the like employed in connection with the construction, installation, alteration, or other IMPROVEMENT upon, or the previous sale or leasing of, any LOT shall be permitted.

6.17 Trees. No trees shall be removed from any LOT without the prior written consent of the ARCHITECTURAL REVIEW BOARD. Such approval shall be reasonably given, however, if such removal is necessary in connection with the location of the main residential dwelling on a particular LOT where the preservation of any tree would work a hardship or require extraordinary design measures in connection with the location of such dwelling on the LOT. As used herein, the term "trees" shall mean and be defined as any tree having a caliper of four inches (4") or greater in diameter as measured one foot above ground level.

6.18 Mangroves. All mangroves within the subject property are protected by State law. Any mangrove "alteration" (See Chapter 17-27.020(1), F.A.C.) is prohibited by State rule, unless the OWNER applies for a permit requesting said alteration. "Selective trimming" of mangroves is allowed by an OWNER without a state permit if the activity complies with the specific criteria set forth in Chapter 17-27.060(2) F.A.C. A copy of Chapter 17-27 F.A.C. is available from the ASSOCIATION upon request.

Any modification to the mangroves must be approved in writing by the ASSOCIATION (also see Section 11.11, "Shoreline Protection Easement").

6.19 Drainage. A SURFACE WATER MANAGEMENT SYSTEM has been designed for LANSING ISLAND to provide a working system of integrated flood control in the event of a large storm. This system is also designed to prevent the discharge of road oils, pollutants, and fertilizers into the Indian River basin, minimizing any effects of development on the local water quality.

All storm water from any LOT shall drain into or onto contiguous or adjacent drainage easements, retention areas, or COMMON PROPERTY in accordance with the SURFACE WATER MANAGEMENT SYSTEM for LANSING ISLAND as filed with and approved by the CITY and the St. Johns River Water Management District, under the latter's permit as modified, and any replacement or substituted permits issued by the St. Johns River Water Management District from time to time. Storm water from any LOT shall not be permitted or allowed to drain or flow unnaturally onto, over, under, across, or upon any contiguous or adjacent LOT unless a drainage easement shall exist therefor.

No OWNER shall be permitted to alter the grade of or original drainage plan for any LOT, or change the direction of, obstruct, or retard the flow of surface water drainage, nor shall any OWNER alter or remove any drainage or environmental berm or swale on any LOT or divert any storm water drainage over, under, through, or around any such berm or swale.

- 6.20 Driveways. Driveway entrance ways to each LOT shall not encroach or affect in any way the SURFACE WATER MANAGEMENT SYSTEM for LANSING ISLAND. Specifically, all individual LOT retention areas and all inter-connecting apparatus shall not be impacted or reduced. All driveways shall be constructed adjacent to the side property lines with a minimum setback of three feet (3') from the edge of any retention area. All driveways shall have incorporated into their design the prevention of any future degradation of the retention areas by erosion or other soil movement and must be approved by the ASSOCIATION in writing.
- 6.21 Septic Tanks. If required by applicable governmental authorities, including the COUNTY, CITY, and/or the State of Florida Department of Environmental Regulation, sewage and wastewater disposal on any LOT may be by septic tank and drainfield, and if so required, each OWNER will be responsible for the installation, maintenance, replacement, and repair of the septic tank and drainfield for his LOT, including, without limitation, keeping the bacteria in the septic tank at active levels and pumping out the septic tank to clear it of excess sludge when necessary.
- 6.22 Window Treatments. Window treatments shall consist of draperies, blinds, decorative panels, or other tasteful window coverings, and no newspaper, aluminum foil, sheets, or other temporary window treatments are permitted.
- 6.23 Outside Storage of Personal Property. The personal property of any resident of the SUBJECT PROPERTY shall be kept inside the resident's UNIT, except for tasteful patio furniture and other personal property commonly kept outside, unless specifically approved by the ASSOCIATION in writing.
- 6.24 Open House for Sale. The SUBJECT PROPERTY shall be opened to public visitation or open house for sale by an OWNER on the second Sunday of any month or other appropriate date as determined by the BOARD. The OWNER's public guest shall be allowed to proceed to that OWNER'S LOT only. The public guest shall not be allowed on any COMMON PROPERTY, except for COMMON STREETS AND ROADS and the BRIDGE, unless accompanied by the OWNER. The public guest is subject to the restrictions, RULES AND REGULATIONS of the ASSOCIATION, and may be denied access to the SUBJECT PROPERTY when deemed appropriate by the ASSOCIATION.

The OWNER shall be responsible for notifying the ASSOCIATION in writing at least three (3) days prior to any public visitation or open house for sale of the OWNER's intentions of including their LOT in the open house for sale day. At no time shall the BOARD grant more than one day in any calendar month for public visitation or open house, unless approved by at least a two-thirds (2/3) majority vote of the total members.

Open house for sale and public visitation shall mean the granting of access to LANSING ISLAND to PERSONS of the general public, without the name of the guest being on a pre-determined guest list as sponsored by an OWNER, for the purpose of marketing, advertising, and selling the LOT, IMPROVEMENTS, or other personal property of an OWNER.

Notwithstanding the foregoing provisions, the DEVELOPER specifically reserves the right, for himself and his agents, employees, nominees, and assigns, the right, privilege, and easement to have any public visitation or open house for sale at any time with no restriction as to access to COMMON PROPERTY and with no restrictions whatsoever by the ASSOCIATION.

- 6.25 RULES AND REGULATIONS. In addition to the foregoing restrictions on the use of any LOT, the ASSOCIATION shall have the right, power, and authority, subject to the prior written consent and approval of DEVELOPER, to promulgate and impose reasonable RULES AND REGULATIONS governing and/or restricting the use of any LOT and to thereafter change, modify, alter, amend, rescind, and augment any of the same; provided, however, that no RULES AND REGULATIONS so promulgated shall be in conflict with the provisions of this DECLARATION. Any such RULES AND REGULATIONS so promulgated by the ASSOCIATION shall be applicable to and binding upon the SUBJECT PROPERTY and the OWNERS thereof and their successors and assigns, as well as all guests or invitees of and all parties claiming by, through, or under such OWNERS.

6.26 Enforcement. In the event of a violation of or failure to comply with the foregoing requirements of this section and the failure of the OWNER of the affected LOT, within a reasonable time period as determined by the BOARD following written notice by the ASSOCIATION of such violation or non-compliance and the nature thereof to cure or remedy such violation, then the ASSOCIATION or its duly appointed employees, agents, or contractors, shall have and are specifically granted the right and privilege of and an easement and license to enter upon the affected LOT or any portion or portions thereof or IMPROVEMENTS thereon, without being guilty of any trespass thereat, for the purpose of undertaking such acts or actions as deemed necessary by the ASSOCIATION and as may be reasonably necessary to cure or eliminate such violation; all at the sole cost and expense of the OWNER of the affected LOT.

Such costs and expenses, together with an overhead expense to the ASSOCIATION of fifteen percent (15%) of the total amount thereof, shall be assessed by the ASSOCIATION as an Individual LOT ASSESSMENT as provided in Section 9.11 of this DECLARATION to the affected LOT and the OWNER thereof. Any such Individual LOT ASSESSMENT shall be payable by the OWNER of the affected LOT to the ASSOCIATION within ten (10) days after written notice of the amount thereof. Any such Individual LOT ASSESSMENT not paid within said ten-day period shall grant the ASSOCIATION the right to lien the affected LOT in accordance with the provisions of Section 9.5 of this DECLARATION.

In addition, the ASSOCIATION shall specifically have the right to injunctive relief to require the OWNER to stop, remove, and/or alter any alteration, addition, IMPROVEMENT, or change in a manner which complies with the requirements of this DECLARATION, or the ASSOCIATION may pursue any other remedy available to it, which specifically includes reasonable fines as provided for in Section 9.5 of the DECLARATION. In connection therewith, the ASSOCIATION shall have the right to enter onto any LOT and make any inspection necessary to determine that the provisions of this Section have been complied with.

Any action to enforce this Section must be commenced within one year after the date of the violation. The foregoing shall be in addition to any other remedy set forth herein for violations of this DECLARATION. Notwithstanding anything contained within this DECLARATION to the contrary, the ASSOCIATION shall have the exclusive authority to enforce the provisions of this Paragraph.

6.27 Precedence Over Less Stringent Governmental Regulations. In those instances where the covenants, conditions, and restrictions set forth in this DECLARATION set or establish minimum standards or limitations or restrictions on use in excess of GOVERNMENTAL REGULATIONS, the covenants, conditions, and restrictions set forth in this DECLARATION shall take precedence and prevail over less stringent GOVERNMENTAL REGULATIONS.

ARTICLE VII

BUILDING RESTRICTIONS - RESIDENTIAL PROPERTY

7.0 Generally. The erection, placement, construction, and installation of all IMPROVEMENTS on any LOT shall be subject to and governed by this DECLARATION, and the following covenants, restrictions, and easements, to wit:

7.1 Building Type. As the use of RESIDENTIAL PROPERTY is limited to single family residential dwelling purposes only, no building or structure other than one single family residence or dwelling and its related appurtenances, facilities, and IMPROVEMENTS shall be placed, located, erected, constructed, or installed, or permitted to remain on RESIDENTIAL PROPERTY; except that, if deemed appropriate by the ARCHITECTURAL REVIEW BOARD by virtue of the size and location of a particular LOT and the type of residence constructed thereon, detached garages, guest houses, and servants quarters may be permitted as an appurtenance to the main dwelling constructed on RESIDENTIAL PROPERTY.

7.2 Approved Plans. All IMPROVEMENTS must be constructed in accordance with detailed plans and specifications prepared by licensed registered architects and landscape architects or designers in conformance with all applicable GOVERNMENTAL REGULATIONS and approved by the ARCHITECTURAL REVIEW BOARD prior to the commencement of construction as more particularity provided in Article XII of this DECLARATION.

7.3 GOVERNMENTAL REGULATIONS. All IMPROVEMENTS placed, located, erected, constructed, and installed upon RESIDENTIAL PROPERTY shall conform to and comply with all applicable GOVERNMENTAL REGULATIONS, including, without limitation, all building and zoning regulations of the CITY.

7.4 ARCHITECTURAL STANDARDS MANUAL. All IMPROVEMENTS shall be placed, located, erected, constructed, installed, and maintained on RESIDENTIAL PROPERTY in conformance with the ARCHITECTURAL STANDARDS MANUAL for which provision is made in Article XII of this DECLARATION, as the same may be changed, amended, or modified from time to time.

7.5 Construction. The construction of all residential dwellings and other IMPROVEMENTS on RESIDENTIAL PROPERTY must be performed by such builders, general contractors, and subcontractors which are:

(a) licensed in the State of Florida or the COUNTY to engage in the business of residential building and construction.

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(b) approved in writing by the DEVELOPER and the ARCHITECTURAL REVIEW BOARD as being qualified and otherwise acceptable to DEVELOPER to perform construction work within LANSING ISLAND. The latter approval shall be within the sole and absolute discretion of DEVELOPER and the ARCHITECTURAL REVIEW BOARD.

7.6 Construction Time. Unless and otherwise approved by the ARCHITECTURAL REVIEW BOARD in writing, substantial construction of residential dwellings and other IMPROVEMENTS must be commenced not later than six (6) months from the date that the ARCHITECTURAL REVIEW BOARD issues its written approval of the final plans and specifications therefor. If substantial construction shall not commence within such six-month period, the plans and specifications for any proposed construction must once again be reviewed and approved by the ARCHITECTURAL REVIEW BOARD in accordance with the provisions of Article XII of this DECLARATION and any prior approval of the same by the ARCHITECTURAL REVIEW BOARD shall no longer be binding on the ARCHITECTURAL REVIEW BOARD.

Commencement of construction must also occur on or before limitations as set forth by the DEVELOPER from time to time and notified in writing to the ASSOCIATION and the ARCHITECTURAL REVIEW BOARD. Commencement of construction time limits as set forth herein by the DEVELOPER supercede all other construction time limitations for LANSING ISLAND.

Upon commencement of construction, such construction shall be prosecuted diligently, continuously, and without interruption to completion within a reasonable time; but in no event more than one year from the date of the commencement of such construction. However, the ARCHITECTURAL REVIEW BOARD shall have the power and authority to extend the period permitted for construction, as aforesaid; provided that the OWNER and general contractor involved make written application for such extension stating the reasons for the requested extension of time and provided further that the ARCHITECTURAL REVIEW BOARD, in the exercise of its reasonable discretion, determines that the request is reasonable and the extension is warranted.

7.7 Height Limitation. No IMPROVEMENT on any LOT shall exceed thirty-five feet (35') in height, as measured from the finished grade of first floor to the roof peak at its highest point. Each residential dwelling on a LOT shall consist of not more than two full stories unless otherwise approved in writing by the ARCHITECTURAL REVIEW BOARD.

7.8 Building Setback Lines. No part of any building shall be constructed, erected, placed, or installed any closer to the property boundary lines of any LOT as set forth and permitted by the ARCHITECTURAL REVIEW BOARD and in conformance with the ARCHITECTURAL STANDARDS MANUAL as the same may be changed, amended, or modified from time to time.

7.9 Minimum Open Areas. Each LOT shall have no more than forty percent (40%) of its total land area covered by buildings, structures, driveways, parking areas, sidewalks, swimming pools, decks, or other impervious surfaces.

7.10 Dwelling Size. Each single family residential dwelling constructed on RESIDENTIAL PROPERTY, except a guest house when permitted by the ARCHITECTURAL REVIEW BOARD, shall have a minimum heated and cooled living area as follows, to wit:

7.10.1 All Interior LOTS. A required minimum of two thousand seven hundred (2,700) square feet.

7.10.2 All Waterfront LOTS. A required minimum of three thousand (3,000) square feet.

7.11 Temporary IMPROVEMENTS. No buildings, structures, IMPROVEMENTS, or other facilities of a temporary nature, including trailers, tents, or shacks shall be permitted on RESIDENTIAL PROPERTY; provided, however, that temporary improvements or facilities used solely in connection with and during the period of the construction of approved permanent IMPROVEMENTS may be permitted by the ARCHITECTURAL REVIEW BOARD, in its discretion, during the period of the construction of such permanent IMPROVEMENTS so long as the same are located as inconspicuously as possible, are kept in good condition, have no signage attached thereto, and are removed immediately following the completion of such construction. The location of such temporary improvements during construction shall be approved in writing by the ARCHITECTURAL REVIEW BOARD.

7.12 Garages and Carports. No carports shall be placed, erected, constructed, installed, or maintained on RESIDENTIAL PROPERTY. Each single family residential dwelling constructed and maintained on RESIDENTIAL PROPERTY shall have a garage as an appurtenance thereto. All garages shall be for not less than two (2) standard size passenger automobiles. Garages may also contain appropriately sized storage rooms, recreational workshops, and tool rooms as approved by the ARCHITECTURAL REVIEW BOARD.

Subject to the granting of a variance by the ARCHITECTURAL REVIEW BOARD as hereinafter provided, all garages, whether attached to or detached from the principal residential dwelling, shall be designed, erected, constructed, installed, or maintained in such manner that the garage doors thereof shall not face the COMMON STREETS AND ROADS.

No garage shall be converted to another use (e.g., living space) without the substitution, on the LOT involved, of another garage meeting the minimum requirements of this Section of this DECLARATION and the approval of the ARCHITECTURAL REVIEW BOARD as otherwise provided in this DECLARATION.

All garages must be as set forth and permitted by the ARCHITECTURAL REVIEW BOARD and in conformation with the ARCHITECTURAL STANDARDS MANUAL.

- 7.13 Curb Cuts. Vehicular access to each LOT on RESIDENTIAL PROPERTY shall be through or over such driveway(s) and curb cut(s) as shall be approved by the ARCHITECTURAL REVIEW BOARD prior to construction. The location, size, and angle of the approach of all driveways and curb cuts shall be subject to the approval of the ARCHITECTURAL REVIEW BOARD and shall correspond with the SURFACE WATER MANAGEMENT SYSTEM.
- 7.14 Driveways. All driveways, turnarounds, and parking areas shall have a concrete base and shall be paved or finished with a hard, dust-free material approved by the ARCHITECTURAL REVIEW BOARD or otherwise specified in the ARCHITECTURAL STANDARDS MANUAL. Each driveway shall extend the entire distance from the garage front door to the paved portion of the street or roadway in front of or adjacent to the LOT on which such driveway is constructed.
- 7.15 Sidewalks and Landscaping. The sidewalk and landscaping system for the sidewalk, landscape, and utility easement areas or adjacent to those particular streets designated by the DEVELOPER shall be constructed and installed by and at the expense of the OWNER or OWNERS of the LOT or LOTS in that particular area or adjacent to those particular streets within LANSING ISLAND so designated by the DEVELOPER and per the plans and specifications of the DEVELOPER.

Each OWNER must construct the sidewalk and landscaping per the plans and specifications as set forth by the DEVELOPER for the sidewalk, landscape, and utility easement within one year of the OWNER'S closing on said LOT or LOTS or within one year of the issuance of a Certificate of Use by the CITY for the BRIDGE, whichever occurs last.

In the event that the sidewalk and landscaping on a particular LOT is not constructed by and at the expense of the OWNER of such LOT within the time period allowed or within sixty (60) days following such OWNER'S receipt of the aforesaid written notice from the ASSOCIATION or DEVELOPER to do so, as aforesaid, the ASSOCIATION, in the exercise of its rights under the ASSOCIATION Easement for which provision is made in Section 11.9 of this DECLARATION, without being guilty of a trespass on account thereof, shall be entitled to enter upon such LOT through its agents and contractors for the purpose of constructing a sidewalk and landscaping on such LOT and the costs and expenses incurred by the ASSOCIATION in so doing, together with reasonable overhead expenses of the ASSOCIATION in connection therewith, shall be charged to such OWNER and such LOT as an Individual LOT ASSESSMENT for which provision is made in Article IX of this DECLARATION.

All sidewalks constructed within LANSING ISLAND, shall be five feet (5') wide and four inches (4") thick, reinforced with six-inch (6") by six-inch ten gauge metal welded wire and shall run the entire length of the street or road frontage of each LOT or pursuant to such other specifications as may be established by the ARCHITECTURAL REVIEW BOARD and set forth in the ARCHITECTURAL STANDARDS MANUAL from time to time. Such sidewalks and landscaping, however, shall be part of the COMMON PROPERTY and once installed shall be maintained by the ASSOCIATION.

- 7.16 Roofs. The roofs of the main body of all buildings and other structures, including the principal residence and all boat houses, shall be pitched. No flat roofs shall be permitted without the approval of the DEVELOPER and the ARCHITECTURAL REVIEW BOARD. The DEVELOPER and ARCHITECTURAL REVIEW BOARD may, in their discretion, approve flat roofs on part of the main body of a building if architecturally compatible with the remainder of the roof structure, the particular building on which it is to be constructed, and all adjacent residences and other structures.

The pitch of all roofs (other than those for boathouses for which provision is made in Section 7.39 of this DECLARATION) shall be not less than six inches (6") in twelve inches (12") (5/12 vertical/horizontal) or, as otherwise specified in the ARCHITECTURAL STANDARDS MANUAL. All roofs shall be constructed of clay, tile, cement tile, slate, standing seam copper, cedar shake shingle, or other materials specified in the ARCHITECTURAL STANDARDS MANUAL or otherwise approved by the ARCHITECTURAL REVIEW BOARD. However, no asbestos, fiberglass, or similar type roof shingles shall be permitted. All roof colors must be approved by the ARCHITECTURAL REVIEW BOARD.

- 7.17 Roof Structures. No antennas, windmills, appliances, or other rooftop installation or structure of any type shall be placed, located, erected, constructed, installed, or maintained upon the exterior roof of any building or structure unless the same shall first be approved in writing by the ARCHITECTURAL REVIEW BOARD and shall otherwise be erected, constructed, installed, and maintained on the rear yard side of the roof or otherwise in such manner and at such location that the same shall not be visible from any street, LOT, or public view. It is expressly provided, however, that rooftop attic ventilators and fans and solar collector panels which are designed and architecturally treated in an aesthetically acceptable manner and otherwise in conformance with guidelines therefore, if any, set forth in the ARCHITECTURAL STANDARDS MANUAL, may be permitted if approved by the ARCHITECTURAL REVIEW BOARD within its reasonable discretion.

- 7.18 Antennas, Etc. No antennas, aerials, discs, dishes, or other devices for the transmission or reception of radio or television signals or any other form of electro-magnetic radiation or communication shall be erected, constructed, installed, used, or maintained outside of any building or structure on RESIDENTIAL PROPERTY, whether or not the same is attached to or detached from a building or a structure, unless specifically proven unobtrusive and not a nuisance and approved in writing by the ARB, the ASSOCIATION, and the DEVELOPER, which approval may be withdrawn at any time.
- 7.19 Windows. The windows of all buildings on RESIDENTIAL PROPERTY shall have frames and/or muntins, if any, constructed of wood or such other materials as shall be in conformance with the applicable provisions of the ARCHITECTURAL STANDARDS MANUAL. In no event shall raw or silver aluminum windows frames be permitted.
- 7.20 Reflective or Mirrored Glass. No reflective or mirrored glass shall be used on, in, or for the windows or doors of any buildings or other IMPROVEMENTS constructed upon RESIDENTIAL PROPERTY.
- 7.21 Awnings, Shutters, and Window Coverings. No window of any building or other IMPROVEMENTS constructed upon RESIDENTIAL PROPERTY shall be covered by any awnings, canopies, shutters (including hurricane or storm shutters), boards, or similar type window coverings; except such as may be required for protection from storms, and only then during the period of any such storm, or as provided in the ARCHITECTURAL STANDARDS MANUAL. Nor shall any such windows be covered by or coated with any foil or other reflecting or mirrored materials. The foregoing restriction shall not be construed as a prohibition against decorative exterior shutters located to the side of window openings or as a prohibition against suitable awnings located over or above window openings as provided in the ARCHITECTURAL STANDARDS MANUAL.
- 7.22 Exterior Air Conditioning Equipment. All air conditioning compressors and other equipment located outside of a residential dwelling shall be screened from the view of COMMON STREETS AND ROADS and adjacent LOTS by opaque walls attached to and made a part of each single family residential dwelling and otherwise in conformity with the applicable provisions of the ARCHITECTURAL STANDARDS MANUAL or as otherwise approved by the ARCHITECTURAL REVIEW BOARD. Absolutely no window air conditioning units shall be permitted.
- 7.23 Fences and Walls. Other than those constructed by the DEVELOPER and/or the ASSOCIATION, no fences or walls shall be erected on RESIDENTIAL PROPERTY unless approved in writing by the ARCHITECTURAL REVIEW BOARD. The height of all fences or walls and building specifications shall be subject to the control and approval of the ARCHITECTURAL REVIEW BOARD, and shall conform to guidelines and specifications otherwise set forth in the ARCHITECTURAL STANDARDS MANUAL.

Exception to such specifications may be permitted by the ARCHITECTURAL REVIEW BOARD, in its discretion. In no event shall uncovered or exposed (whether painted or not) concrete or concrete blocks, or chain link fences be permitted.

- 7.24 Exterior Building Materials, Finishes, and Colors. All exterior building materials, finishes, and colors shall be in conformance with the applicable provisions of the ARCHITECTURAL STANDARDS MANUAL or as otherwise approved by the ARCHITECTURAL REVIEW BOARD. Uncovered or exposed (whether painted or not) concrete or concrete block shall not be permitted as the exterior finish of any building structure or wall unless approved by the ARCHITECTURAL REVIEW BOARD and the DEVELOPER. The foregoing restriction shall be equally applicable to the initial as well as any subsequent painting of any IMPROVEMENTS located on RESIDENTIAL PROPERTY.
- 7.25 Exterior Lighting. Exterior lighting or illumination of buildings, yards, parking areas, sidewalks, and driveways on a LOT shall be designed and installed so as to avoid visible glare (direct or reflected) from street and road rights-of-way, other RESIDENTIAL PROPERTY, or COMMON PROPERTY.

All exterior lighting shall conform to and with the applicable provisions of the ARCHITECTURAL STANDARDS MANUAL. Special exceptions to such specifications may be approved by and within the discretion of the ARCHITECTURAL REVIEW BOARD upon a showing of good cause therefor.

- 7.26 Garbage and Trash Storage Areas. All exterior garbage and trash storage areas shall be enclosed by opaque walls attached to and made part of each single family residential dwelling and otherwise in conformity with the applicable provisions of the ARCHITECTURAL STANDARDS MANUAL or as otherwise approved by the ARCHITECTURAL REVIEW BOARD.
- 7.27 Natural Gas Appliances. Unless otherwise approved by the DEVELOPER upon a showing of good cause for an exception from the provisions of this Section, each single family residential dwelling constructed within LANSING ISLAND must contain at least three (3) natural gas consuming "major household appliances" with a year-round demand which are connected to the natural gas distribution system which is located in the right-of-way of the COMMON STREETS AND ROADS within LANSING ISLAND. This requirement shall be deleted should no natural gas distribution system be installed within LANSING ISLAND.

The term "major household appliances" shall include, without limitation, water heaters, ovens, ranges, clothes dryers, and heating equipment, including furnaces.

Barbecue grills, gas logs, and outdoor gas lighting appliances shall not qualify as "major household appliances" for purposes of this Section.

7.28 Mailboxes and Other Delivery Boxes. The design, construction, and location of a mailbox shall be in strict conformance with the applicable provisions of the ARCHITECTURAL STANDARDS MANUAL or as otherwise approved by the ARCHITECTURAL REVIEW BOARD in writing; it being expressly provided, however, that the ARCHITECTURAL REVIEW BOARD must approve a location consistent with the rules and regulations of the United States Post Office Department. The DEVELOPER shall have the right to require that all street or roadside mailboxes shall be of one particular type or design specified by the DEVELOPER so long as such designated type or design meets the rules and regulations of the United States Post Office Department.

Should the United States Post Office Department approve and make mail deliveries within LANSING ISLAND to or at wall receptacles or mailboxes attached to each single family residential dwellings, each OWNER, upon notice and the request of the ASSOCIATION, shall remove and replace the street or roadside mailbox on his LOT with a receptacle or mailbox attached to the single family residential dwelling constructed on his LOT. All other delivery boxes or receptacles of any kind, including those for newspapers, milk, and other similar home deliveries, shall also be designed, constructed, and located in conformance with the applicable provisions of the ARCHITECTURAL STANDARDS MANUAL or as otherwise approved by the ARCHITECTURAL REVIEW BOARD.

7.29 Underground Utilities. All utility lines and facilities shall be located and installed underground or concealed under or within a building or other on-site IMPROVEMENTS approved by the ARCHITECTURAL REVIEW BOARD; provided, however, that the foregoing restriction shall not be deemed to prohibit the following:

- a. temporary electric power and telephone service poles and water lines which are incident to the ongoing construction of approved permanent IMPROVEMENTS, and, provided further, that the same are removed immediately following the completion of such construction;
- b. above-ground electric transformers, meters, and similar apparatus properly screened as specified in the ARCHITECTURAL STANDARDS MANUAL or as otherwise approved by the ARCHITECTURAL REVIEW BOARD;

7.30 Security System. Each single family residential dwelling constructed on RESIDENTIAL PROPERTY may have an individual electronic security system compatible with and connected to the central security system which has been or may be installed throughout LANSING ISLAND.

The plans and specifications for each single family residential dwelling within LANSING ISLAND which are submitted to the ARCHITECTURAL REVIEW BOARD for its review and approval shall include plans and specifications for such individual electronic security system. Such individual electronic security system must be compatible with the LANSING ISLAND central security system and must be purchased from and installed by a contractor or subcontractor approved by the DEVELOPER and must be 100% compatible with the LANSING ISLAND central security system.

The cost of the installation and maintenance of the individual electronic security system for each single family residential dwelling on RESIDENTIAL PROPERTY and the connection thereof to the LANSING ISLAND central security system shall be borne by the OWNER of each LOT. It is expressly provided, however, that notwithstanding any ARCHITECTURAL REVIEW BOARD approval of the plans and specifications therefor, neither the DEVELOPER, the ASSOCIATION, nor the ARCHITECTURAL REVIEW BOARD shall have any responsibility or liability to anyone whomsoever or whatsoever, including, without limitation, any OWNER, for any failure, deficiency, or malfunction of any individual electronic security system or the LANSING ISLAND central security system.

7.31 Cable Television System. LANSING ISLAND may elect to have a community antenna cable television system. Each single family residential dwelling constructed on RESIDENTIAL PROPERTY shall be wired to receive and accept cable television service and shall have an individual cable television system compatible with and connected to a LANSING ISLAND community antenna cable television system, which has been or is to be installed throughout LANSING ISLAND, or a common carrier public cable system.

The plans and specifications for each single family residential dwelling within LANSING ISLAND which are submitted to the ARCHITECTURAL REVIEW BOARD for its review and approval shall include plans and specifications of such individual cable television system. Such individual cable television system must be compatible with a LANSING ISLAND central cable television system and any common carrier public cable system.

The cost of the installation and maintenance of the individual cable television system for each single family residential dwelling on RESIDENTIAL PROPERTY and the connection thereof to the cable television system shall be borne by the OWNER of each LOT. It is expressly provided, however, that notwithstanding any ARCHITECTURAL REVIEW BOARD approval of the plans and specifications therefor, neither the DEVELOPER, the ASSOCIATION, nor the ARCHITECTURAL REVIEW BOARD shall have any responsibility or liability to anyone whomsoever or whatsoever, including, without limitation, any OWNER, for any failure, deficiency, or malfunction of any individual cable television system or the LANSING ISLAND central cable television system.

- 7.32 Landscaping. Each LOT shall be landscaped in accordance with a landscape plan which is:
- prepared by a landscape architect licensed in the State of Florida, or other approved professional, and
 - in conformance with the applicable provisions of and using the plant pallet specified in the ARCHITECTURAL STANDARDS MANUAL, and
 - otherwise approved by the ARCHITECTURAL REVIEW BOARD.

The landscape plan submitted to and approved by the ARCHITECTURAL REVIEW BOARD shall reflect a minimum budget of five percent (5%) of the construction cost of the residential dwelling and other IMPROVEMENTS constructed on such LOT, or \$12,000.00, whichever is greater. Such budget shall be for initial plant materials, trees, and installation, exclusive of the cost of sod and the required underground irrigation system, unless the ARCHITECTURAL REVIEW BOARD, in consideration of the preservation and utilization of certain existing trees, plants, and vegetation shall approve a budget in a lesser amount.

All landscaping approved by the ARCHITECTURAL REVIEW BOARD shall be installed within twenty (20) days after the completion of construction of the main residential dwelling on a LOT as evidenced by the issuance of a certificate of occupancy for such dwelling. Extensions may be granted for delays in obtaining plant materials, trees etc.

- 7.33 Grass. No type or variety of grass other than St. Augustine Floratam grass shall be planted on RESIDENTIAL PROPERTY unless specifically approved by the ARB in writing, and such grass shall be planted only in those areas where specified on the landscape plan approved by the ARCHITECTURAL REVIEW BOARD. The planting of grass on RESIDENTIAL PROPERTY shall be accomplished by the installation of full sod covering the entire area required to be grassed. Partial sodding, sprigging, plugging, or seeding shall not be permitted.
- 7.34 Fertilization and Insect Control. When the home is completed, a fertilization and insect control program must be established for the LOT. St. Augustine grass should be fertilized in March, July, and November. All fertilizers should be a quality lawn special containing natural organics and added essential elements. An appropriate insect control program shall be established by each OWNER to minimize infestation or damage caused by insects.
- 7.35 Trees. The provisions of Section 6.17 of this DECLARATION shall be applicable to the building or construction of any single family residential dwelling or other structure or IMPROVEMENTS on RESIDENTIAL PROPERTY and such provisions are incorporated in this Article VII by this reference thereto.
- 7.36 Irrigation Systems. All landscaped and grassed open areas on RESIDENTIAL PROPERTY shall be irrigated by means of an automatic underground irrigation or sprinkling system capable of regularly and sufficiently irrigating all lawns and plantings within such open area.
- The plans and specifications for each such irrigation or sprinkling system shall be included in and submitted with and reviewed and approved by the ARCHITECTURAL REVIEW BOARD as part of the landscape plan required pursuant to the provisions of Section 7.2 of this DECLARATION. Such irrigation or sprinkling system shall be installed prior to or simultaneously with the implementation of the landscape plan approved by the ARCHITECTURAL REVIEW BOARD; but in any event, within the time provided in Section 7.32 of this DECLARATION for the installation of landscaping. All irrigation or sprinkling systems must meet the specifications as established by the ARCHITECTURAL STANDARDS MANUAL or the ARB.
- 7.37 Artificial Vegetation. No artificial vegetation shall be permitted on the exterior of any building on RESIDENTIAL PROPERTY.
- 7.38 Docks and Boathouses. No dock or boathouse shall be constructed on RESIDENTIAL PROPERTY or on or over State-owned lands or waters adjacent or contiguous to RESIDENTIAL PROPERTY unless the plans and specifications therefor are first approved in writing by the ARCHITECTURAL REVIEW BOARD, and, only then, if such dock or boathouse shall be in compliance with the requirements as set forth in the ARCHITECTURAL STANDARDS MANUAL.
- 7.39 Bank Treatments. Any bank treatment for a waterfront LOT must conform to the ARCHITECTURAL STANDARDS MANUAL and the ARB.
- 7.40 Waterfront LOT Berm and Swale System. The SURFACE WATER MANAGEMENT SYSTEM for LANSING ISLAND contemplates and requires that each waterfront LOT shall have a waterfront berm and swale to prevent direct surface storm water drainage or discharge into the several waterways adjacent to LANSING ISLAND. The construction of such berm and swale system is a requirement of the St. Johns River Water Management District and the CITY.

A DRAINAGE AND RETENTION EASEMENT and berm and swale area has been created and reserved on each LOT as more particularly provided in Article XI of this DECLARATION and also as more particularly shown on the PLAT. Accordingly, the SURFACE WATER MANAGEMENT SYSTEM for each LOT must be constructed by and at the expense of the OWNER of each LOT at the time of the construction of a residential dwelling thereon, unless otherwise provided by the DEVELOPER. Such SURFACE WATER MANAGEMENT SYSTEM must be constructed in accordance with the plans and specifications approved and on file with the St. Johns River Water Management District and the CITY.

In the event that such SURFACE WATER MANAGEMENT SYSTEM is not constructed and installed on a particular waterfront LOT in accordance with the plans and specifications therefore approved by the St. Johns River Water Management District, as aforesaid, at the time of the initial construction of a residential dwelling thereon, or, in the event that such SURFACE WATER MANAGEMENT SYSTEM, following its initial construction and installation, shall not thereafter be maintained on a particular LOT in accordance with such plans and specifications, and the OWNER of such LOT shall fail to bring the SURFACE WATER MANAGEMENT SYSTEM on his LOT into conformance with such plans and specifications within thirty (30) days following his receipt of the written demand of the ASSOCIATION to do so, the ASSOCIATION, in the exercise of its rights under the ASSOCIATION Easement for which provision is made in Article XI of this DECLARATION, without being guilty of a trespass on account thereof, shall be entitled to enter upon such LOT through its agents and contractors for the purpose of undertaking such grading and construction work and other activities as are reasonably necessary to construct, reconstruct, or otherwise bring the berm and swale system on such LOT into conformance with such plans and specifications; and the costs and expenses incurred by the ASSOCIATION in so doing, together with reasonable overhead expenses of the ASSOCIATION in connection therewith, shall be charged to such OWNER and such LOT as an Individual LOT ASSESSMENT for which provision is made in Article IX of this DECLARATION.

7.41 Precedence Over Less Stringent GOVERNMENTAL REGULATIONS. In those instances where the covenants, conditions, and restrictions set forth in this DECLARATION set or establish minimum standards in excess of GOVERNMENTAL REGULATIONS including, without limitation, building and zoning regulations, the covenants, conditions, and restrictions set forth in this DECLARATION shall take precedence and prevail over less stringent GOVERNMENTAL REGULATIONS.

7.42 Waivers, Exceptions, and Variances by DEVELOPER. Notwithstanding anything to the contrary set forth in or which may otherwise be implied from the terms and provisions of this DECLARATION, the DEVELOPER specifically reserves exclusively unto itself, for the duration hereinafter specified, the right and privilege (but DEVELOPER shall have absolutely no obligation), upon a showing of good cause therefor, to:

- a. grant waivers with respect to any existing or proposed future deviation from, or violation or infraction of, the building restrictions specified in Article VII of this DECLARATION where, in the reasonably exercised good faith judgment and discretion of the DEVELOPER, the DEVELOPER shall determine or decide that such deviation, violation, or infraction is de minimis, minor, or insignificant; and
- b. grant waivers of, exceptions to, or variances from, the building restrictions specified in Article VII of this DECLARATION where special conditions and circumstances exist which are peculiar to a particular LOT and not generally applicable to other LOTS (e.g., because of its unusual size, configuration, or location) or where a literal interpretation or application of any such building restriction to a particular LOT would be inappropriate, inequitable, or otherwise work or result in a hardship or deny such LOT and the OWNER thereof specific rights which are generally enjoyed by other LOTS and OWNERS; it being expressly provided, however, that, in all cases, the DEVELOPER, in its exercise of such right and privilege shall, in its reasonably exercised and good faith judgment and discretion determine or decide that its grant of any such waiver, exception, or variance shall not result in, represent, be, or constitute a significant deviation of or derogation from:
 1. the uniform plan of development for LANSING ISLAND, or
 2. the high architectural, ecological, environmental, and aesthetic standards otherwise established for LANSING ISLAND, or
 3. the objects and purposes of this DECLARATION as hereinabove enumerated in Article II of this DECLARATION.

The DEVELOPER shall have such right and privilege to grant waivers, exceptions and variances, as aforesaid, until either:

- a. the expiration of a period of fifteen (15) years from the date of the recordation of this DECLARATION among the Public Records of the COUNTY, or
- b. the sale by the DEVELOPER or its successors or assigns in the ordinary course of business, and not in bulk, of ninety-five percent (95%) of all LOTS, specifically including ADDITIONAL PROPERTY, in LANSING ISLAND, whichever shall first occur. Following the occurrence of the first of the foregoing events to occur, the right and privilege of the DEVELOPER to grant waivers, exceptions, and variances, as aforesaid, shall be delegated and assigned by the DEVELOPER to and thereafter vest in the ARCHITECTURAL REVIEW BOARD.

To the extent that any such waiver, exception, or variance is granted in a particular instance or with respect to any particular LOT or IMPROVEMENT pursuant to the provisions of this Section as aforesaid, the same shall not be deemed to be a precedent for the granting of such or any similar waiver, exception, or variance in any other particular instance of any other particular LOT or IMPROVEMENT.

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ARTICLE VIII
COMMON PROPERTY

- 8.1 Conveyance by DEVELOPER. On or before the date of the last conveyance of all LOTS within the SUBJECT PROPERTY by the DEVELOPER to any third party owner, the COMMON PROPERTY hereinabove described in Section 5.2 shall be conveyed (TURNOVER) by the DEVELOPER to the ASSOCIATION free and clear of any and all liens, encumbrances, exceptions, or qualifications whatsoever, save and except only for:
- a. real property taxes for the year of such conveyance, if any
 - b. title exceptions of records, if any,
 - c. the covenants, restrictions, and easements set forth in this DECLARATION and any amendments hereto, and
 - d. any special covenants, restrictions, and easements which may be contained in the instrument of conveyance pursuant to which title to such COMMON PROPERTY is conveyed by the DEVELOPER to the ASSOCIATION.
- 8.2 Maintenance Prior to Conveyance. Notwithstanding anything herein set forth to the contrary, however, the ASSOCIATION, subsequent to the conveyance by the DEVELOPER as set forth in Section 8.1 shall assume all common maintenance, COMMON EXPENSES, and liabilities associated with the use and ownership of any such COMMON PROPERTY, as set forth in this DECLARATION, or for all COMMON PROPERTY as set forth by the PLAT within the SUBJECT PROPERTY.
- 8.3 ADDITIONAL PROPERTY. In addition to the COMMON PROPERTY described in Section 5.2 of this DECLARATION, the DEVELOPER, in its sole discretion, shall have the right to convey to the ASSOCIATION, and the ASSOCIATION shall be unconditionally obligated to accept, any other portion of the SUBJECT PROPERTY owned by the DEVELOPER so long as such property is used or useful for any of the objects and purposes for which the ASSOCIATION has been created and established.
- Should the DEVELOPER so convey any such ADDITIONAL PROPERTY, the same shall thereupon become and thereafter continue to be COMMON PROPERTY which shall be subject to all covenants, restrictions, and easements set forth in this DECLARATION with respect to all other COMMON PROPERTY.
- 8.4 Restriction on Use. Subsequent to the conveyance of any COMMON PROPERTY to the ASSOCIATION by the DEVELOPER, the COMMON PROPERTY shall, subject only to the easements specified in Article XI of this DECLARATION, and be developed, improved, maintained, used, and enjoyed solely for the purposes specified in this DECLARATION and in the instrument of conveyance and for the common health, safety, welfare, and passive recreation of the residents of and visitors to LANSING ISLAND and for no other purpose or purposes whatsoever. No other use shall be made of the COMMON PROPERTY without the prior written consent of the DEVELOPER or ASSOCIATION.
- 8.5 Restriction on Conveyance. Subject only to the provisions of the ARTICLES, subsequent to the conveyance of any COMMON PROPERTY to the ASSOCIATION by the DEVELOPER, the COMMON PROPERTY may not be subdivided, partitioned, sold, transferred, conveyed, alienated, leased, mortgaged, or hypothecated by the ASSOCIATION in any manner whatsoever without the prior written consent of the DEVELOPER. Neither shall the COMMON PROPERTY be abandoned by the ASSOCIATION without the prior written consent of the DEVELOPER. Upon a violation of this provision of this Section, title to any COMMON PROPERTY so subdivided, partitioned, sold, transferred, conveyed, alienated, leased, mortgaged, or hypothecated by the ASSOCIATION without the prior written consent of the DEVELOPER shall automatically revert to and become re-vested in the DEVELOPER upon the filing by the DEVELOPER among the Public Records of the COUNTY of an appropriate declaration of its intention to accept such reversion.
- 8.6 Encumbrance as Security. Notwithstanding the provisions of Section 8.5 above (upon the conveyance by DEVELOPER), the ASSOCIATION shall have the right, in accordance with this DECLARATION and its ARTICLES and BY-LAWS, to:
- a. borrow money for the purpose of improving, replacing, restoring, or expanding the COMMON PROPERTY and to mortgage or otherwise encumber the COMMON PROPERTY solely as security for any such loan or loans, and
 - b. engage in purchase money financing with respect to personal property and equipment purchased by the ASSOCIATION in connection with the performance of its duties and obligations pursuant to this DECLARATION and to secure the payment of the purchase price therefor by the encumbrance of the personal property and equipment so purchased.

It being expressly provided, however, that any such mortgage or other encumbrance shall be subject in all respects to the terms and provisions of this DECLARATION and any amendments hereto and, provided further, that in no event shall the ASSOCIATION be entitled or empowered to mortgage or otherwise encumber the COMMON STREETS AND ROADS, the BRIDGE, the SURFACE WATER MANAGEMENT SYSTEM, or any other easements granted to it.

8.7 Use by OWNERS. Subject to any reasonable RULES AND REGULATIONS adopted and promulgated by the ASSOCIATION pursuant to and in accordance with this DECLARATION, and subject always to any and all easements granted by or reserved to the DEVELOPER in this DECLARATION, each and every OWNER shall have the non-exclusive right, privilege, and easement to use and enjoy the COMMON PROPERTY for the purpose or purposes for which the same is conveyed, designated, and intended by the DEVELOPER and maintained by the ASSOCIATION, and such non-exclusive right, privilege, and easement shall be an appurtenance to and shall pass with the title to each and every LOT within the SUBJECT PROPERTY; subject, however, at all times, to the covenants, restrictions, and easements set forth in this DECLARATION including, without limitation, the following, to wit:

a. The right of the ASSOCIATION to suspend the right, privilege, and easement of any OWNER and the members of his family, tenants, guests, or other invitees to use the COMMON PROPERTY or any portion thereof designated by the ASSOCIATION:

1. during any time in which any ASSESSMENT levied by the ASSOCIATION against such OWNER and his LOT remains unpaid and delinquent for a period of thirty (30) days or more from the due date, or for a period not to exceed thirty (30) days for any single infraction of the RULES AND REGULATIONS of the ASSOCIATION with respect to the use of the COMMON PROPERTY;

2. provided, however, that except for a suspension of such right, privilege, and easement occasioned by the failure of an OWNER to pay any ASSESSMENT within thirty (30) days from the date that the same is levied by the ASSOCIATION, any suspension of the right, privilege, and easement to use and enjoy the COMMON PROPERTY shall be made by the ASSOCIATION, or a committee duly appointed by the ASSOCIATION for that purpose, only after appropriate notice and hearing given and held.

In the reasonable delegation and enforcement by the ASSOCIATION of the DECLARATION, the ASSOCIATION shall have the right to suspend or otherwise interfere and deny right, privilege, and easement to SUBJECT PROPERTY as the ASSOCIATION deems in violation of this DECLARATION.

Notwithstanding anything herein set forth to the contrary, however, the ASSOCIATION shall have no right, power, or authority hereunder to suspend or otherwise unreasonably interfere with any OWNER'S right, privilege, and easement to use the COMMON STREETS AND ROADS and BRIDGE for ingress and egress to and from such OWNER'S LOT; it being expressly provided, however, that temporary interference for purposes of appropriate identification at and clearance through any LANSING ISLAND security gate and guards shall not be deemed to be an unreasonable interference with such right, privilege, and easement of and for ingress and egress, or in the enforcement of this DECLARATION.

b. The right of the ASSOCIATION to limit the number of guests of OWNERS who may use the COMMON PROPERTY from time to time and to limit the use of the COMMON PROPERTY by PERSONS not in possession of a LOT at a particular time, but owning a sufficient interest therein for so as to be classified as an OWNER and member of the ASSOCIATION.

c. The right of the ASSOCIATION to establish, promulgate, and enforce reasonable RULES AND REGULATIONS pertaining to and with respect to the use of the COMMON PROPERTY pursuant to Section 8.11 of this DECLARATION.

d. The right of the ASSOCIATION to charge reasonable admission and other fees to or for the use of the COMMON PROPERTY, other than for the use of the COMMON STREETS AND ROADS, the BRIDGE, the SURFACE WATER MANAGEMENT SYSTEM, and other easements established, created, or declared pursuant to this DECLARATION or the PLAT.

e. The right of the ASSOCIATION to take such steps as are reasonably necessary to maintain, preserve, and protect the COMMON PROPERTY.

8.8 Delegation of Use. Any OWNER shall be entitled to and may delegate his right, privilege, and easement to use and enjoy the COMMON PROPERTY to the members of his family, his tenants, guests, or other invitees; subject, at all times, however, to such reasonable RULES AND REGULATIONS governing such delegation as may be established, promulgated, and enforced by the ASSOCIATION pursuant to Section 8.11 of this DECLARATION.

In the event and for so long as an OWNER shall delegate such right, privilege, and easement for use and enjoyment to tenants who reside on his LOT, the ASSOCIATION shall be entitled, after the adoption and promulgation of appropriate RULES AND REGULATIONS with respect thereto, to limit or restrict the right of the OWNER making such delegation to a tenant in the simultaneous exercise of such right, privilege, and easement of and for the use and enjoyment of the COMMON PROPERTY.

8.9 Waiver of Use. No OWNER may exempt himself from personal liability for or exempt his LOT from any ASSESSMENTS duly levied by the ASSOCIATION, or release the LOT owned by him from the liens, charges, encumbrances, and other provisions of this DECLARATION, or the RULES AND REGULATIONS of the ASSOCIATION by:

- a. the voluntary waiver of the right, privilege, and easement for the use and enjoyment of the COMMON PROPERTY,
 - b. the abandonment of his LOT, or
 - c. by conduct which results in the ASSOCIATION's suspension of such right, privilege, and easement as provided in Section 8.7 of this DECLARATION.
- 8.10 Administration and Care. The administration, regulation, care, maintenance, repair, restoration, replacement, preservation, and protection of the COMMON PROPERTY shall be the responsibility of the ASSOCIATION as more particularly provided in Article VIII of this DECLARATION and in the ARTICLES of the ASSOCIATION.
- 8.11 RULES AND REGULATIONS. In addition to the foregoing restrictions on the use of SUBJECT PROPERTY, and subsequent to turnover of COMMON PROPERTY by DEVELOPER, the ASSOCIATION shall have the right, power, and authority, to promulgate and impose reasonable RULES AND REGULATIONS governing and/or restricting the use of COMMON PROPERTY and to thereafter change, modify, alter, amend, rescind, and augment any of the same; provided, however, that no RULES AND REGULATIONS so promulgated shall be in conflict with the provisions of this DECLARATION.
- Any such RULES AND REGULATIONS so promulgated by the ASSOCIATION shall be applicable to and binding upon all COMMON PROPERTY and all OWNERS and their successors and assigns, as well as upon all members of their families, their tenants, guests, and other invitees, and upon all other parties claiming by, through, or under such OWNERS.
- 8.12 Exculpation from Liability and Responsibility. Presently all COMMON STREETS AND ROADS within and the SURFACE WATER MANAGEMENT SYSTEM for LANSING ISLAND are private; not public. They have not been dedicated to or accepted or maintained by any governmental authority, including the COUNTY or CITY.
- As hereinabove provided in Article XI, it is contemplated that easements for the COMMON STREETS AND ROADS, the BRIDGE, and SURFACE WATER MANAGEMENT SYSTEM for LANSING ISLAND have heretofore been or shall hereafter be granted and conveyed by the DEVELOPER to the ASSOCIATION.
- Following such conveyance (turnover) as set forth in Section 8.1, the ASSOCIATION shall, subject to the covenants, restrictions, and easements of this DECLARATION, have sole and exclusive jurisdiction over and responsibility for the ownership, administration, management, regulation, care, maintenance, repair, restoration, replacement, improvements, preservation, and protection of the COMMON STREETS AND ROADS, BRIDGE, and SURFACE WATER MANAGEMENT SYSTEM within SUBJECT PROPERTY. Accordingly, each OWNER, by acceptance of a deed or other conveyance to his LOT shall be deemed to have agreed that neither the DEVELOPER, the CITY, nor any other governmental agency shall have any liability or responsibility whatsoever (whether financial or otherwise) with respect to the COMMON STREETS AND ROADS, BRIDGE, and the SURFACE WATER MANAGEMENT SYSTEM for SUBJECT PROPERTY and each such OWNER shall be deemed to have further agreed to look solely and exclusively to the ASSOCIATION with respect to any such liability or responsibility.
- 8.13 Payment of ASSESSMENTS Not Substitute for Taxes. The payment of ASSESSMENTS from time to time established, made, levied, imposed, and collected by the ASSOCIATION pursuant to this DECLARATION, including, without limitation, those for the maintenance of the COMMON PROPERTY, including those ASSESSMENTS for maintenance of the COMMON STREETS AND ROADS, BRIDGE, the SURFACE WATER MANAGEMENT SYSTEM, and the common street lighting system shall not be deemed to be a substitute for or otherwise relieve any OWNER of the SUBJECT PROPERTY from paying any other taxes, fees, charges, or assessments imposed by the CITY, COUNTY, or other governmental authority.
- 8.14 Dedication of COMMON PROPERTY. Notwithstanding the provisions of this ARTICLE VIII any or all of the COMMON PROPERTY may be dedicated (1) by the DEVELOPER, prior to turnover, or (2) by the OWNERS of all lots contained within this subdivision, or (3) by the ASSOCIATION, after turnover, to the appropriate governmental agency(s) having jurisdiction over the specific COMMON PROPERTY(S). Upon such dedication, the provisions contained in this ARTICLE VIII relating to use, maintenance, restrictions, administration, and ASSESSMENTS will be amended since said IMPROVEMENTS will thereafter be public and not privately owned as provided in this ARTICLE VIII.

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ARTICLE IX

ASSESSMENTS

9.1 ASSESSMENTS FOR COMMON EXPENSES. In order to provide for and assure the availability of the funds necessary to pay COMMON EXPENSES associated with the ownership, administration, management, regulation, care, maintenance, repair, restoration, replacement, preservation, and protection of the COMMON PROPERTY and such additional COMMON EXPENSES as may be associated with and otherwise necessary for the ASSOCIATION to perform its duties and obligations pursuant to and in accordance with this DECLARATION and its ARTICLES and BY-LAWS and to otherwise carry out and accomplish the objects and purposes for which the ASSOCIATION has been created and established, each LOT and each OWNER of such LOT shall, by the acceptance of a deed or other conveyance of title to his LOT, whether or not it shall be expressly stated in any such deed or other conveyance, be obligated for and be deemed to have covenanted and agreed to pay to the ASSOCIATION all ASSESSMENTS, whether Regular ASSESSMENTS, Capital Expenditure ASSESSMENTS, Special ASSESSMENTS, or Individual LOT ASSESSMENTS, established, levied, made, and imposed by the ASSOCIATION pursuant to this DECLARATION.

All such ASSESSMENTS shall be established, levied, made, imposed, enforced, and collected pursuant to the provisions of this DECLARATION and the ARTICLES, BY-LAWS, and RULES AND REGULATIONS of the ASSOCIATION.

9.2 COMMON EXPENSES. The COMMON EXPENSES for which ASSESSMENTS shall be established, made, levied, imposed, enforced, and collected by the ASSOCIATION pursuant to this DECLARATION shall be all costs and expenses incurred by the ASSOCIATION in the discharge and performance of the duties and obligations of the ASSOCIATION pursuant to this DECLARATION and the ARTICLES and BY-LAWS of the ASSOCIATION and in furtherance of the objects and purposes for which the ASSOCIATION has been formed, created, and established, including, without limitation, the following costs and expenses, to wit:

- a. Those incurred in the management and administration of the business and affairs of the ASSOCIATION, including, but not limited to, the salaries of any employees of the ASSOCIATION and the fees or other compensation paid to consultants to the ASSOCIATION, including, without limitation, architects, engineers, accountants, and attorneys.
- b. Those incurred in connection with the ownership, administration, management, regulation, care, maintenance, repair, restoration, replacement, improvement, preservation, and protection of the COMMON PROPERTY, including, without limitation, the COMMON STREETS AND ROADS, the BRIDGE, the SURFACE WATER MANAGEMENT SYSTEM, and any recreational facilities.
- c. Reasonable reserves for repairs to and replacement of the COMMON PROPERTY, including, without limitation, the COMMON STREETS AND ROADS, the BRIDGE and its mechanical systems, the SURFACE WATER MANAGEMENT SYSTEM, and any recreational facilities.
- d. Those incurred for utility services to the ASSOCIATION and the COMMON PROPERTY, including, without limitation, electric power for the common street lighting, central electronic security, central cable television, irrigation systems, the BRIDGE, gas, and phone.
- e. Those incurred for garbage and trash collection, removal, and disposal services provided to the ASSOCIATION and the COMMON PROPERTY.
- f. Those incurred for COMMON PROPERTY and easements, landscape maintenance and replacement, including irrigation.
- g. Those incurred for internal security services and BRIDGE tending services to the SUBJECT PROPERTY, including the salaries of security guards, BRIDGE tenders, vehicles, and other equipment and facilities necessary for the furnishing of internal security services and BRIDGE tending services to the SUBJECT PROPERTY, including, without limitation, guardhouses, guard gates, central electronic security system and the like, whether the same are provided directly by the ASSOCIATION itself or by way of a services contract with an independent contractor.
- h. Those incurred in connection with the regulation of traffic on the COMMON STREETS AND ROADS and BRIDGE within and upon the SUBJECT PROPERTY, including, without limitation, the acquisition, maintenance, care, repair, and replacement of BRIDGE mechanics and structure, traffic controls and other signs, including street, stop, and directional signs.
- i. Those incurred as premiums on or for any insurance obtained by the ASSOCIATION, including without limitation, fire, casualty, liability, and other insurance covering the COMMON PROPERTY and health, medical, workman's compensation and other insurance covering employees of the ASSOCIATION, if any.
- j. All taxes paid by the ASSOCIATION, including, without limitation, ad valorem real and personal property taxes on the COMMON PROPERTY, if any.
- k. Those incurred in connection with any payments by the ASSOCIATION for the discharge of any lien or encumbrance upon the COMMON PROPERTY or any portion thereof.

- l. Those incurred by the ARCHITECTURAL REVIEW BOARD in the performance of its duties and obligations pursuant to this DECLARATION, including, without limitation, the fees of or other compensation paid to consultants to the ARCHITECTURAL REVIEW BOARD, including architects, landscape architects, engineers, and attorneys.
- m. Those incurred from time to time by any committees of the ASSOCIATION which are reasonably connected to the discharge of the duties and obligations of the ASSOCIATION pursuant to this DECLARATION.
- n. Those incurred in connection with the acquisition and repayment of any loans made to the ASSOCIATION, including the principal of, interest on, and closing costs and other charges associated with any such loan or loans and/or purchase money financing engaged in by the ASSOCIATION.
- o. Those incurred in connection with the enforcement of the provisions of this DECLARATION, including the fees, costs, and expenses of any attorney retained or employed by the ASSOCIATION for that purpose.
- p. Those incurred in connection with any other Declaration of Covenants and Restrictions, in which the ASSOCIATION as set forth in this DECLARATION is a member.
- 9.3 Use of ASSESSMENTS. The funds received and derived from any and all ASSESSMENTS made by the ASSOCIATION shall be used exclusively for the performance of the duties and obligations of the ASSOCIATION pursuant to this DECLARATION, the payment of COMMON EXPENSES, the improvement of the COMMON PROPERTY, the operation and administration of the ASSOCIATION, and the promotion of the health, safety, and general welfare of the residents of LANSING ISLAND and for the benefit of the LANSING ISLAND community generally.
- 9.4 Prohibited Use of ASSESSMENTS. Notwithstanding anything to the contrary set forth in or otherwise implied from the terms and provisions of this DECLARATION generally, or Section 9.1 of this DECLARATION in particular, the ASSOCIATION shall not have the power or authority to use, make, levy, impose, enforce, and collect, and is hereby expressly prohibited from using, making, levying, imposing, enforcing, and collecting, any ASSESSMENT for the purpose, in whole or part, of financing the prosecution of or otherwise supporting any actual or contemplated litigation, including any and all appeals related thereto, against the DEVELOPER with respect to matters related to LANSING ISLAND or its development or operation.
- If, notwithstanding the foregoing prohibition, the ASSOCIATION shall attempt to use, make, levy, impose, enforce, and collect any ASSESSMENT for such prohibited purpose or use, the DEVELOPER and any LOT or other property owned by DEVELOPER within LANSING ISLAND shall be and are hereby exempted from any such ASSESSMENT or attempted ASSESSMENT.
- 9.5 Lien for ASSESSMENT. All ASSESSMENTS established, made, levied, and imposed by the ASSOCIATION pursuant to this DECLARATION, together with interest, late charges, costs, and expenses, including reasonable attorneys' fees associated with the collection thereof (whether suit be brought or not), shall be a charge and a continuing lien upon each LOT against or with respect to which any such ASSESSMENT is made or levied.
- 9.6 Personal Liability for ASSESSMENTS. In addition to the foregoing lien for such ASSESSMENTS, each such ASSESSMENT, together with interest, late charges, costs, and expenses, including attorneys' fees associated with the collection thereof (whether suit be brought or not), as aforesaid, shall also be the personal obligation and liability of the OWNER of the LOT against or with respect to which any such ASSESSMENT is made, levied, or imposed at the time such ASSESSMENT is so made, levied, or imposed.
- Such personal liability for ASSESSMENTS made, levied, or imposed pursuant to this DECLARATION prior to the sale, transfer, or other conveyance of a particular LOT shall not, by virtue of any such sale, transfer, or other conveyance, pass to such OWNER's successor or successors in title unless such personal liability of the OWNER shall be expressly assumed as the personal obligation of such successor or successors in title; provided, however, that no such assumption of personal liability by such successor or successors in title shall relieve any OWNER otherwise personally liable for payment of ASSESSMENTS from the personal liability and obligation for the payment of the same.
- 9.7 Types of ASSESSMENTS. The ASSOCIATION is hereby authorized and empowered to establish, make, levy, impose, enforce, and collect those Regular ASSESSMENTS, Capital Expenditure ASSESSMENTS, Special ASSESSMENTS, and Individual LOT ASSESSMENTS for which provision is made in this DECLARATION.
- 9.8 Regular ASSESSMENTS. The ASSOCIATION shall be and is hereby authorized, empowered, and directed to establish, levy, make, impose, enforce, and collect during each calendar year a Regular ASSESSMENT for COMMON EXPENSES to be incurred by the ASSOCIATION during such calendar year in the performance of its duties and obligations pursuant to this DECLARATION. Such Regular ASSESSMENTS shall be established, made, levied, imposed, enforced, collected, and otherwise governed by the following provisions, to wit:
- 9.8.1 Initial Regular ASSESSMENT. The initial or first Regular ASSESSMENT for a full or partial calendar year shall not exceed Three Thousand and no/100 Dollars (\$3,000.00) annually per LOT.

9.8.2 Rate of Regular ASSESSMENTS. Subsequent to the initial calendar year, the amount of the Regular ASSESSMENT for each calendar year shall be established and determined by the BOARD of the ASSOCIATION not later than thirty (30) days prior to the beginning of each calendar year. The BOARD shall establish the Regular ASSESSMENT for each calendar year based upon a pro forma operating statement or estimated budget for such calendar year which, in turn, shall be based, among other things, upon an estimate of the total COMMON EXPENSES likely to be incurred during such calendar year, taking into account the previous operating history of any surplus funds (not including reserves) held by the ASSOCIATION, and the establishment of reasonable reserves for the maintenance and replacement of and repairs to the COMMON PROPERTY, including the COMMON STREETS AND ROADS, the BRIDGE, and the SURFACE WATER MANAGEMENT SYSTEM.

The BOARD of the ASSOCIATION shall, at least fifteen (15) days prior to the establishment of the Regular ASSESSMENT for the next succeeding calendar year, provide to each OWNER a copy of the pro forma operating statement or estimated budget to be used by the ASSOCIATION in the establishment of the Regular ASSESSMENT for the next succeeding calendar year. The total amount of the COMMON EXPENSES so estimated shall be divided by the total number of LOTS within the SUBJECT PROPERTY in order to determine the amount of the Regular ASSESSMENT for each LOT for such calendar year; it being expressly provided, however, that:

- a. In the case of the common ownership of more than one platted LOT (i.e., one LOT and a portion of another LOT or two or more LOTS) and the combination, upon development, substantial completion of, and improvements of the same as a single unified home site as otherwise provided in this DECLARATION, the same shall be deemed, for ASSESSMENT purposes, to be a single LOT, and
- b. Such classification must be deemed by the ASSOCIATION in writing within thirty (30) days upon request by the OWNER. Upon dispute of classification, the ARCHITECTURAL REVIEW BOARD shall make a classification. Re-classification can only occur prior to the adoption by the BOARD of the new calendar year budget, and shall be binding on the next succeeding year's ASSESSMENTS only.

9.8.3 Notice of Regular ASSESSMENTS. Not later than fifteen (15) days prior to the beginning of each calendar year, the ASSOCIATION shall provide written notice to each OWNER of the amount of the Regular ASSESSMENT established, made, levied, and imposed for the next succeeding calendar year and the dates upon which installments for the same shall become due and payable.

9.8.4 Commencement of Regular ASSESSMENTS. Unless otherwise determined by the BOARD of the ASSOCIATION, regular ASSESSMENTS shall commence as to all LOTS on the first day of the month following issuance by the CITY of a Certificate of Use for the BRIDGE. The BOARD shall notify all OWNERS in writing of such occurrence.

9.8.5 Insufficient Regular ASSESSMENTS. In the event that the ASSOCIATION shall determine during any calendar year that the Regular ASSESSMENT established for such calendar year is or will become inadequate or insufficient to meet all COMMON EXPENSES for such calendar year, for whatever reason, the ASSOCIATION shall be entitled to immediately determine the approximate amount of the deficiency or inadequacy of the Regular ASSESSMENT for such fiscal year, issue a supplemental estimate of COMMON EXPENSES to all members of the ASSOCIATION, and within thirty (30) days thereafter establish, make, levy, impose, enforce and collect a supplemental or revised Regular ASSESSMENT for such calendar year.

9.8.6 Limitation on Increases. After the ASSOCIATION's second full calendar year of operation, the ASSOCIATION shall not establish, make, levy, impose, enforce, and collect any Regular ASSESSMENT which is increased over the amount of the Regular ASSESSMENT for the immediately preceding calendar year by more than fifteen percent (15%) without the prior approval of a majority of the members who are voting in person or by proxy at a meeting of the ASSOCIATION duly called for such purpose and of which written notice specifying the amount of a proposed increase in the Regular ASSESSMENT for the prior fiscal year is sent to each member of the ASSOCIATION at least thirty (30) days in advance of such meeting.

Notwithstanding anything herein set forth to the contrary, however, should the ASSOCIATION deem it necessary to establish, make, levy, impose, or enforce bill collection, any Regular ASSESSMENT which is an increase over the limitations as set forth in this Section due to the addition of COMMON PROPERTY or personal property or an increase in the SUBJECT PROPERTY. Said increase may be imposed by the ASSOCIATION with the approval of the BOARD only.

9.8.7 Payment of ASSESSMENTS. Regular ASSESSMENTS shall be due and payable in advance in monthly or quarterly installments as determined by the BOARD of the ASSOCIATION, in its reasonable discretion. Such installments shall be due and payable without any further notice other than that notice specified in Section 9.8.3 above.

9.8.8 DEVELOPER Option. Notwithstanding anything set forth in this DECLARATION to the contrary, until such time as DEVELOPER no longer elects a majority of members to the BOARD as set forth in the ARTICLES, the DEVELOPER shall have the option of either:

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- a. paying the Regular ASSESSMENT with respect to each LOT owned by the DEVELOPER from time to time, the same as any other OWNER, or
- b. paying the difference between the actual COMMON EXPENSES, excluding reserves, incurred by the ASSOCIATION for a particular calendar year over the total amount of Regular ASSESSMENTS levied by the ASSOCIATION against all other LOTS (i.e., LOTS not owned by DEVELOPER) and OWNERS during such year.

9.8.9 Reserves. After the initial Regular ASSESSMENT, the Regular ASSESSMENTS shall include reasonable amounts as determined by the BOARD of the ASSOCIATION to be collected as reserves against and for the future periodic maintenance, repair, or replacement of all or any portion or portions of the COMMON PROPERTY, including, without limitation, the COMMON STREETS AND ROADS, the BRIDGE, the SURFACE WATER MANAGEMENT SYSTEM, common recreational facilities, and common area landscaping, or for such other purpose or purposes as shall be determined by the BOARD of the ASSOCIATION, in its reasonable discretion. Such portion of Regular ASSESSMENTS representing amounts collected as reserves, whether pursuant to this Section or otherwise, shall be deposited by the ASSOCIATION in a separate interest-bearing bank account to be held in trust by the ASSOCIATION for the purpose or purposes for which the same are collected and are to be segregated from and not commingled with any other funds of the ASSOCIATION.

9.9 Capital Expenditure ASSESSMENTS. In addition to the other ASSESSMENTS for which provision is made in this DECLARATION, the ASSOCIATION shall be and is hereby authorized and empowered to establish, make, levy, impose, enforce, and collect from time to time Capital Expenditure ASSESSMENTS for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction or the unexpected repair or replacement of any capital improvement to or upon the COMMON PROPERTY or the cost of the initial purchase or any subsequent unexpected repair or replacement of any fixtures, equipment, or personal property purchased, repaired, or replaced by the ASSOCIATION in furtherance of the discharge of its duties and obligations pursuant to this DECLARATION.

Provided, however, that any such Capital Expenditure ASSESSMENT shall have the prior approval of two-thirds (2/3) of the members who are voting in person or by proxy at a meeting of the ASSOCIATION duly called for such purpose and of which written notice specifying the nature of the proposed capital expenditure and the amount of the proposed Capital Expenditure ASSESSMENT is sent to all members of the ASSOCIATION at least thirty (30) days in advance of such meeting. All sums collected as Capital Expenditure ASSESSMENTS shall be used only for the capital improvements or purchases for or with respect to which such Capital Expenditure ASSESSMENT has been approved and such sums shall be deposited by the ASSOCIATION in a separate interest-bearing bank account, not commingled with any other funds of the ASSOCIATION, to be held in trust by the ASSOCIATION for such purposes until said capital expenditure is complete.

9.10 Special ASSESSMENTS. In addition to other ASSESSMENTS for which provision is made in this DECLARATION, the ASSOCIATION shall be and is hereby authorized and empowered to establish, make, levy, impose, enforce, and collect from time to time Special ASSESSMENTS for any purpose directly related to the discharge of its duties and obligations pursuant to this DECLARATION, provided, however, that any such Special ASSESSMENT shall have the prior approval of two-thirds (2/3) of the members of the ASSOCIATION who are voting in person or by proxy at a meeting of the ASSOCIATION duly called for such purpose and of which written notice specifying the nature and amount of the proposed Special ASSESSMENT is sent to all members of the ASSOCIATION at least thirty (30) days in advance of such meeting. All sums collected as Special ASSESSMENTS shall be used only for the purpose for which such Special ASSESSMENT is established, made, levied, imposed, enforced, and collected, and shall be deposited in a separate interest-bearing bank account, not commingled with any other funds of the ASSOCIATION, and held in trust by the ASSOCIATION for such purpose.

9.11 Individual LOT ASSESSMENTS. In addition to any other ASSESSMENTS for which provisions are made in this DECLARATION, the ASSOCIATION shall be and hereby is authorized and empowered to establish, make, levy, impose, enforce, and collect against and from a particular LOT and the OWNER of such LOT an Individual LOT ASSESSMENT for:

- a. costs and expenses incurred by the ASSOCIATION in bringing a particular OWNER or his particular LOT into compliance with the provisions of this DECLARATION, including any action taken, fines imposed, or cost or expense incurred by the ASSOCIATION to cure and eliminate any violation of or non-compliance with the provisions of this DECLARATION, following the failure of such OWNER to cure or remedy such violation or non-compliance;
- b. costs and expenses, including reasonable attorneys' fees, whether or not suit be brought, incurred by the ASSOCIATION in the enforcement of the provisions of this DECLARATION against a particular LOT or the OWNER of such LOT;

- c. costs and expenses incurred by the ASSOCIATION in furnishing or providing labor, services, and materials which benefit a particular LOT or the OWNER of a particular LOT provided that such labor, services, or materials can be accepted or rejected by such particular OWNER in advance of the ASSOCIATION's furnishing or providing the same such that upon such OWNER's acceptance of any such labor, services, or materials such OWNER shall be deemed to have agreed that the costs and expenses associated therewith shall be made, levied, imposed, collected, and enforced as an Individual LOT ASSESSMENT against such particular OWNER and his particular LOT; and
- d. reasonable overhead expenses of the ASSOCIATION associated with any Individual LOT ASSESSMENT, established, made, levied, imposed, collected, and enforced pursuant to this Section in an amount not to exceed fifteen percent (15%) of the actual costs and expenses incurred by the ASSOCIATION for any Individual LOT ASSESSMENT specified in Subparagraphs a, b, or c of this Section.

9.12 Quorum for Action Authorized Under Sections 9.8.6, 9.9, and 9.10. The quorum required at any meeting of the ASSOCIATION for any action authorized pursuant to Sections 9.8.6, 9.9, and 9.10 of this DECLARATION shall be as follows:

At the first meeting called for the purpose of taking any such action, the presence at such meeting, in person or by proxy, of members of the ASSOCIATION entitled to cast at least fifty-one percent (51%) of all the votes of the members shall constitute a quorum. If the required quorum is not forthcoming at such first meeting, a subsequent meeting may be called for the same purpose, subject to the notice requirements set forth in said Section 9.8.6, 9.9, and 9.10, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the first meeting; provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

9.13 Uniformity of ASSESSMENTS. Except for Individual LOT ASSESSMENTS for which provision is made in Section 9.11 of this DECLARATION, all ASSESSMENTS shall be uniformly fixed at an equal amount per LOT and shall be collected on a uniform basis from the OWNER of each LOT.

9.14 Exempt Property. Notwithstanding anything to the contrary set forth in or otherwise implied from the terms and provisions of this DECLARATION, the COMMON PROPERTY shall be and is hereby made exempt from all ASSESSMENTS of any kind, nature, type, or character whatsoever. Additionally, any property, other than a LOT, which is owned by or dedicated to and accepted by any governmental body or agency, shall be exempt from any ASSESSMENTS. All property otherwise exempted from taxation by the laws of the State of Florida or the United States of America shall also be exempt from all ASSESSMENTS; but only upon the same terms, subject to the same conditions, and only to the extent of any such exemption from taxation.

9.15 Subordination of ASSESSMENT Lien. The lien of and for all ASSESSMENTS provided for in this DECLARATION shall be and is hereby made junior, inferior, and subordinate in all respects to the lien of any bona fide first mortgage held by an INSTITUTIONAL LENDER or a purchase money mortgage held by the DEVELOPER upon a particular LOT.

The sale, transfer, or conveyance of title to a particular LOT shall not affect the effectiveness, viability, or priority of any ASSESSMENT lien or the personal liability of the OWNER of such LOT for the payment of any ASSESSMENT; provided, however, that the sale, transfer, or conveyance of title to a particular LOT pursuant to judicial proceedings in foreclosure of a bona fide first mortgage on such LOT held by an INSTITUTIONAL LENDER or the DEVELOPER shall extinguish the lien of such ASSESSMENTS (but not the personal liability of the OWNER of such LOT) as to payments on account thereof which became due and payable prior to such foreclosure sale, transfer, or conveyance. However, no such foreclosure sale, transfer, or conveyance shall relieve such LOT or the OWNER of that LOT from the personal obligation or liability for the payment of any ASSESSMENTS accruing or becoming due and payable subsequent to such sale, transfer, or conveyance from the lien thereof.

9.16 Certificate of ASSESSMENTS Due. The ASSOCIATION shall, upon the request of an OWNER or any other interested party, furnish a certificate executed by its President, Secretary, Treasurer or any other officer thereunto duly authorized, setting forth whether ASSESSMENTS payable with respect to a particular LOT have been paid, the amount of the delinquency, if any, and the amounts of any outstanding and unpaid interest, late charges, penalties, and costs of collection, including attorney's fees and court costs, if any, associated with any such delinquent ASSESSMENTS.

A properly executed certificate of the ASSOCIATION as to the status of ASSESSMENTS, as aforesaid, shall be binding upon the ASSOCIATION as conclusive evidence of the status of the payment of any ASSESSMENT therein stated to have been paid or to be delinquent as of the date of the issuance of such certificate. The ASSOCIATION shall be entitled to charge and collect a reasonable fee not to exceed ten dollars (\$10.00) for and as a condition precedent to the issuance of any such certificate.

9.17 No Defenses or Offsets. All ASSESSMENTS shall be payable in the amounts and at the times specified in any Notice of ASSESSMENT and no defenses or offsets against the payment of such amount shall be permitted for any reason whatsoever, including, without limitation, any claim by an OWNER that:

- a. the ASSOCIATION is not properly exercising its rights and powers or performing or discharging its duties and obligations as provided in this DECLARATION or its BY-LAWS;

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- b. an OWNER and his family or guests has made or elected to make no use of the COMMON PROPERTY;
 - c. the OWNER and his family or guests have otherwise waived or elected to waive their membership in the ASSOCIATION; or
 - d. the ASSOCIATION has suspended the right, privilege, and easement of such OWNER and his family to use the COMMON PROPERTY as provided in Article VIII of this DECLARATION.
- 9.18 Waiver of Homestead or other Exemptions. Each OWNER, by the acceptance of a deed or other conveyance to his LOT, shall, to the extent permitted by applicable law, be deemed to have waived, to the extent of any lien for ASSESSMENTS at any time imposed upon such LOT pursuant to this DECLARATION, the benefit of any homestead or similar exemption laws of the State of Florida or the United States of America now in effect or hereafter enacted.

ARTICLE X

NON-PAYMENT OF ASSESSMENTS

- 10.1 Delinquency. Any ASSESSMENT established, made, levied, or imposed by the ASSOCIATION pursuant to and in accordance with this DECLARATION which is not paid on its due date shall be delinquent. If the delinquent ASSESSMENT is not paid within five (5) days of the due date, the ASSOCIATION, in its discretion, shall be entitled to immediately impose a reasonable late charge associated with the administration of such delinquent ASSESSMENT. Additionally, any such unpaid ASSESSMENT shall bear interest from the date of delinquency at the highest rate then allowed by the laws of the State of Florida or such lesser rate as shall be determined by the BOARD in its discretion.
- After any ASSESSMENT becomes delinquent and aforesaid reasonable late charge has been imposed, the ASSOCIATION shall provide written notice of such delinquency and fine to the OWNER of the LOT to which such delinquent ASSESSMENT has been made, levied, and imposed.
- 10.2 Notice of Lien. The ASSOCIATION shall, upon approval of the BOARD, at any time following the expiration of a period of ten (10) days following the aforesaid delivery of the notice of delinquency, be entitled to cause a Claim of Lien for such delinquent ASSESSMENTS to be filed among the Public Records of the COUNTY. Any such Claim of Lien shall, among other things, state and identify the legal description of the LOT against or with respect to which the lien is claimed, the name of the record OWNER of such LOT as best known to the ASSOCIATION as determined from its records, the amount of the lien claimed, including interest, late charges, and costs and expenses associated with collection, including attorney's fees, if any, accrued to the date of the execution of such Claim of Lien. Such Claim of Lien shall be executed by the President, Secretary, Treasurer, or other officer of the ASSOCIATION thereunto duly authorized by the ASSOCIATION or by the attorney for the ASSOCIATION. Within seven (7) days of the recording of the same, a copy of such Claim of Lien shall be sent to the OWNER of the LOT against or with respect to which such lien is claimed by either:
- a. United States certified or registered mail with return receipt requested and with postage prepaid, or
 - b. hand delivery to the mailbox of the residential dwelling situate on such LOT.
- 10.3 Foreclosure of ASSESSMENT Lien. The ASSOCIATION shall, at any time subsequent to the filing of the aforesaid Claim of Lien among the Public Records of Brevard County, Florida against or with respect to a particular LOT, be entitled to bring an action in the Circuit Court of the Eighteenth Judicial Circuit in and for Brevard County, Florida to foreclose the lien of the ASSOCIATION for delinquent ASSESSMENTS evidenced by such Claim of Lien in the same manner as mortgage liens are foreclosed. Any judicial sale pursuant to such foreclosure action shall be conducted as ordered by the Court or in accordance with the provisions of Section 45.031 Florida Statutes, as amended or replaced from time to time. The ASSOCIATION shall have the right and power to bid at any foreclosure sale with respect to any lien foreclosed by it using its judgment for the delinquent ASSESSMENT, ASSOCIATION funds, or funds otherwise borrowed by the ASSOCIATION for that purpose, and if the successful bidder at such foreclosure sale, to acquire, own, hold, lease, sell, mortgage, and convey any LOT upon or with respect to which it has foreclosed its lien for delinquent ASSESSMENTS.
- 10.4 Collection from OWNER. The ASSOCIATION shall, at any time following the delivery of the aforesaid notice of delinquency, also be entitled to bring an action at law for the recovery and collection of such delinquent ASSESSMENT in the Circuit Court of the Eighteenth Judicial Circuit in and for Brevard County, Florida against the OWNER of the LOT personally obligated for the payment of such delinquent ASSESSMENT. Each OWNER of a LOT, by the acceptance of a deed or other conveyance of the LOT owned by him shall be deemed to have agreed and consented to the jurisdiction of said Court over the PERSON of such OWNER for purposes of any action at law for the recovery and collection of any delinquent ASSESSMENT for the payment of which he is personally obligated.

- 10.5 Judgment Amount. Whether in an action at equity to foreclose the lien of the ASSOCIATION or delinquent ASSESSMENTS or in an action at law for the recovery and collection of any such delinquent ASSESSMENT from the OWNER of the LOT personally obligated for the payment of the same, the ASSOCIATION shall be entitled to recover in such proceedings the amount of such delinquent ASSESSMENT, together with late charges and interest thereon, if any, and such costs and expenses, including reasonable attorneys' fees, associated with the enforcement, recovery, and collection thereof as may be awarded by the Court.
- 10.6 Acceleration of ASSESSMENTS. If any OWNER is in default in the payment of any ASSESSMENT owed to the ASSOCIATION for more than sixty (60) days after written demand by the ASSOCIATION, the ASSOCIATION, upon written notice to the defaulting OWNER, shall have the right to accelerate and require such defaulting OWNER to pay to the ASSOCIATION the ASSESSMENTS for COMMON EXPENSES for the next twelve (12) month period based upon the then existing amount and frequency of ASSESSMENTS for COMMON EXPENSES. In the event of such acceleration, the defaulting OWNER shall continue to be liable for any increases in the regular ASSESSMENTS for COMMON EXPENSES, for all special ASSESSMENTS for COMMON EXPENSES, and/or for all other ASSESSMENTS payable to the ASSOCIATION.
- 10.7 Rental and Receiver. If an OWNER remains in possession of his UNIT and the Claim of Lien of the ASSOCIATION against his UNIT is foreclosed, the court, in its discretion, may require the OWNER to pay a reasonable rental for the UNIT, and the ASSOCIATION is entitled to the appointment of a receiver to collect the rent.
- 10.8 Subordination of Lien. Where any PERSON obtains title to a LOT pursuant to the foreclosure of a first mortgage of record, or where the holder of a first mortgage accepts a deed to a LOT in lieu of foreclosure of the first mortgage of record of such lender, such acquirer of title and its successors and assigns shall not be liable for any ASSESSMENTS or for other monies owed to the ASSOCIATION which are chargeable to the former OWNER of the LOT and which became due prior to acquisition of title as a result of the foreclosure or deed in lieu thereof, unless the payment of such funds is secured by a Claim of Lien recorded prior to the recording of the foreclosed or underlying mortgage. The unpaid ASSESSMENTS or other monies are COMMON EXPENSES collectable from all of the OWNERS, including such acquirer and his successors and assigns. The new OWNER, from and after the time of acquiring such title, shall be liable for payment of all future ASSESSMENTS for COMMON EXPENSES and such other expenses as may be assessed to the OWNER's LOT. Any PERSON who acquires a LOT, except through foreclosure of a first mortgage of record or deed in lieu thereof, including, without limitation, PERSONS acquiring title by sale, gift, devise, operation of law, or by purchase at a judicial or tax sale, shall be liable for all unpaid ASSESSMENTS and other monies due and owing by the former OWNER to the ASSOCIATION, and shall not be entitled to occupancy of the UNIT or enjoyment of the COMMON AREAS, or of the recreational facilities as same may exist from time to time, until such time as all unpaid ASSESSMENTS and other monies have been paid in full.
- 10.9 Assignment of Claim and Lien Rights. The ASSOCIATION, acting through its BOARD, shall have the right to assign its claim and lien rights for the recovery of any unpaid ASSESSMENTS and any other monies owed to the ASSOCIATION, to any third party.
- 10.10 Application of Payments. Any payments made to the ASSOCIATION by any OWNER shall first be applied towards any sums advanced and paid by the ASSOCIATION for taxes and payment on account of superior mortgages, liens, or encumbrances which may have been advanced by the ASSOCIATION in order to preserve and protect its lien; next toward reasonable attorneys' fees incurred by the ASSOCIATION incidental to the collection of ASSESSMENTS and other monies owed to the ASSOCIATION by the OWNER and/or for the enforcement of its lien; next toward interest on any ASSESSMENTS or other monies due to the ASSOCIATION, as provided herein, and next toward any unpaid ASSESSMENTS owed to the ASSOCIATION, in the inverse order that such ASSESSMENTS were due.
- 10.11 Remedies Cumulative. The remedies herein provided for the collection and enforcement of ASSESSMENTS and the foreclosure of the lien therefor shall be cumulative and not alternative; it being expressly provided that any suits brought for the collection of ASSESSMENTS against the OWNER personally obligated and liable for the payment of the same and for the foreclosure of the lien herein provided against the LOT involved may be brought simultaneously as separate counts in the same action.
- 10.12 Satisfaction of Lien. Upon payment or other satisfaction of:
- a. all delinquent ASSESSMENTS specified in the Claim of Lien,
 - b. interest, late charges, costs and expenses of collection, including attorneys' fees, as aforesaid, which have accrued to the date of such payment or satisfaction, and
 - c. all other ASSESSMENTS which have become due and payable with respect to the LOT with respect to which a Claim of Lien has been recorded, the President, Secretary, Treasurer, or other officer of the ASSOCIATION thereunto duly authorized, or the attorney for the ASSOCIATION, shall cause an appropriate release of such Claim of Lien to be filed and recorded among the Public Records of Brevard County, Florida upon the payment by the OWNER of the LOT with respect to which such Claim of Lien was recorded of a reasonable fee to be determined by the ASSOCIATION, to cover the costs associated with the administration of the satisfaction of such lien including, without limitation, the cost of preparing and recording such release.

ARTICLE XI

EASEMENTS

- 11.1 Easements Generally. The DEVELOPER, on behalf of itself and for the benefit, where so stated, of the COUNTY, the CITY, the ASSOCIATION, all OWNERS, and other specified parties, and also for the benefit of all real property from time to time included within the SUBJECT PROPERTY, hereby creates, declares, and reserves the following easements upon those affected portions of the SUBJECT PROPERTY hereinafter specified, to wit:
- 11.2 Ingress, Egress, and Passage Easement. There is hereby created, declared, granted, and reserved for the benefit of the DEVELOPER, the ASSOCIATION, and each OWNER of and each LOT, piece, parcel, and tract of land within the SUBJECT PROPERTY currently and any ADDITIONAL PROPERTIES as determined by the DEVELOPER, and their respective employees, guests, and invitees, and governmental bodies, and also for the benefit of all private PERSONS and public agencies, providing pickup and delivery, fire protection, law enforcement, utility and other governmental services, including the United States Postal Service, a non-exclusive easement for pedestrian and vehicular ingress, egress, and passage over and upon the rights-of-way of and for all COMMON STREETS AND ROADS and the BRIDGE as the same are shown on the PLAT; specifically including, without limitation, the following, to wit: Lansing Island Drive.
- Such easement for ingress, egress, and passage shall be subject to and limited by such reasonable security controls including temporary stoppage and interruption at security gates for identification purposes, as may from time to time be established and promulgated by the ASSOCIATION.
- 11.3 Special Passage Easement. There is hereby created, declared, granted, and reserved for the benefit of the DEVELOPER and its successors and assigns and each OWNER from time to time of all or any portion of the real property described in this DECLARATION attached hereto a non-exclusive easement for vehicular ingress and egress and passage over and upon the right-of-way for Lansing Island Drive as the same is shown on the PLAT. Such special easement for ingress, egress, and passage shall be subject to and limited by such reasonable security controls, including temporary stoppage and interruption at security gates for identification purposes as may from time to time be established and promulgated by the ASSOCIATION.
- 11.4 Public Utility Easements. There are hereby created, declared, granted, and reserved for the benefit of the DEVELOPER, the CITY, the ASSOCIATION, all OWNERS and any public or private providers of utility services to the SUBJECT PROPERTY and their respective successors and assigns a non-exclusive easement for utility purposes over, under, within, and upon the rights-of-way, sidewalk, public utility, and landscape easement area (as defined in Section 11.9), and upon all other utility easements and easement areas shown on the PLAT or otherwise reserved, declared, or created pursuant to this DECLARATION for the purposes of constructing, installing, inspecting, maintaining, repairing, and replacing from time to time any and all utility lines, systems, and facilities from time to time located therein or thereon. The utilities contemplated to be served by such utility easements shall include, without limitation, those providing electric power, sanitary sewer services, natural gas, telephone, potable water, cable television, and electronic security services.
- 11.5 DRAINAGE AND RETENTION EASEMENTS. There is hereby created, declared, and reserved for the benefit of the DEVELOPER, the ASSOCIATION, and all OWNERS a non-exclusive easement for storm water collection, retention, detention, and drainage over, upon, and within the rights-of-way of all COMMON STREETS AND ROADS and all other DRAINAGE AND RETENTION EASEMENTS and public utility and drainage easements as shown on the PLAT or otherwise reserved, declared, or created pursuant to this DECLARATION, together with an easement and license to enter upon such easements and easement areas for the purposes of constructing, installing, inspecting, maintaining, repairing, and replacing any and all storm water drainage systems, IMPROVEMENTS, and facilities from time to time located therein or thereon.

Additionally, the DEVELOPER, for the benefit of itself, the ASSOCIATION, and all OWNERS hereby reserves easements over any and all other portions of the SUBJECT PROPERTY as may be reasonably required from time to time in order to provide storm water drainage to all or any portions of the SUBJECT PROPERTY; provided, however, that any such additional drainage easements shall not unreasonably interfere with the use and enjoyment by any OWNERS of the particular LOTS affected thereby or any improvements from time to time placed, located, constructed, erected, or installed thereon.

The easements hereinabove created, declared, and reserved contemplate the construction of all storm water drainage improvements and facilities shown on the plans for the SURFACE WATER MANAGEMENT SYSTEM for LANSING ISLAND as approved by the CITY and the St. Johns River Water Management District, as modified, and any replacement or substitute permits issued by the St. Johns River Water Management District, and such additional or supplemental facilities as may reasonably be required to provide adequate storm water drainage and surface water management to all portions of the SUBJECT PROPERTY.

Not less than annually, the ASSOCIATION shall be required to inspect and measure all drainage systems located within the SUBJECT PROPERTY to insure that the drainage systems operate as designed. The ASSOCIATION shall be required to modify the drainage systems should maintenance measures become insufficient to achieve operation of the drainage systems as designed. The ASSOCIATION must apply for and obtain approval from the St. Johns River Water Management District for any alternative design prior to installation.

- 11.6 Emergency Access and Drainage Easement. There is hereby created, declared, granted, and reserved for the benefit of the CITY, a non-exclusive easement over and upon the COMMON STREETS AND ROADS, the BRIDGE, and all drainage easements comprising and appurtenant to the SURFACE WATER MANAGEMENT SYSTEM for the purpose of undertaking emergency maintenance and repairs to the SURFACE WATER MANAGEMENT SYSTEM in the event that inadequate maintenance or repair of the SURFACE WATER MANAGEMENT SYSTEM shall create a hazard to the public health, safety, or general welfare. To the extent that the CITY shall, in fact, undertake any such emergency maintenance and repairs to the SURFACE WATER MANAGEMENT SYSTEM because of the inadequate maintenance and repair thereof by the ASSOCIATION, the CITY shall have a lien upon the COMMON PROPERTY as security for the payment by the ASSOCIATION of those costs and expenses reasonably incurred by the CITY in connection therewith. It is expressly provided, however, that the creation, declaration, and reservation of such Emergency Access and Drainage Easement shall not be deemed to impose upon the CITY any obligation, burden, responsibility, or liability to enter upon the SUBJECT PROPERTY or any portion thereof to take any action to maintain or to repair the SURFACE WATER MANAGEMENT SYSTEM or any portion or portions thereof.
- 11.7 Berm and Swale Areas. There is hereby created, declared, granted, and reserved for the benefit of the DEVELOPER, the CITY, and the ASSOCIATION a drainage easement over and upon all berm and swale areas as determined by the St. Johns River Water Management District permit for the SUBJECT PROPERTY, and any of its modifications from time to time, together with an easement and license to enter upon such berm and swale areas for the purposes of constructing, installing, inspecting, maintaining, repairing, or replacing environmental berms and swales and their associated storm water drainage retention/detention areas constituting a part of the SURFACE WATER MANAGEMENT SYSTEM for the SUBJECT PROPERTY. Alteration and/or removal of the berm, swale, and associated storm water retention/detention system constructed and installed within such berm and swale areas shall be prohibited.
- 11.8 Landscape Easements. There is hereby created, declared, granted, and reserved for the benefit of the DEVELOPER and the ASSOCIATION an easement for landscaping purposes over and upon all Landscape Easement areas, if any, or hereafter declared by the DEVELOPER, together with the easement and license to enter upon such Landscape Easement areas for the purposes of installing, maintaining, inspecting, repairing, and replacing any and all landscaping, including trees, grasses, shrubs, bushes, ground covers, and other plant materials and irrigation systems of any kind, whether the same shall be required by the CITY and/or deemed necessary or desirable by the DEVELOPER or the ASSOCIATION.
- 11.9 Sidewalk, Public Utility, and Landscape Easements. There is hereby created, declared, and reserved for the benefit of the DEVELOPER, the ASSOCIATION, and all OWNERS an easement for sidewalk, public utility, and landscape purposes (as herein provided in Section 11.4) over, within, and upon all Sidewalk, Public Utility, and Landscape Easement areas as shown on the PLAT and more particularly located within twenty feet (20') of and immediately adjacent to all of the COMMON STREETS AND ROADS within LANSING ISLAND for the purposes of constructing, installing, maintaining, repairing, and replacing from time to time the sidewalk, landscape, and utilities system of LANSING ISLAND, if any.

All of such benefitted parties shall have a non-exclusive easement for pedestrian ingress, egress, and passage over and upon any sidewalks from time to time located, constructed, installed, and maintained within said Sidewalk, Public Utility, and Landscape Easement areas, together with the easement and license to enter upon such Sidewalk, Public Utility, and Landscape Easement areas for the purposes of installing, maintaining, inspecting, repairing, and replacing any and all landscaping, including trees, grasses, shrubs, bushes, ground covers, and other plant materials and irrigation systems of any kind, whether the same shall be required by the CITY and/or deemed necessary or desirable by the DEVELOPER or the ASSOCIATION.

The Sidewalk, Public Utility, and Landscape Easements and the sidewalks, public utilities, and landscaping, from time to time constructed, installed, and located therein, if any, are hereby declared and shall hereafter be deemed to be COMMON PROPERTY; notwithstanding that the same are located upon LOTS the fee simple title to which is vested in the OWNERS of the affected LOTS.

As hereinabove provided in this Section of this DECLARATION, the OWNER of each LOT encumbered by a Sidewalk, Public Utility, and Landscape Easement shall be obligated, at his expense, to initially install that portion, if any, of the LANSING ISLAND sidewalk or landscaping and irrigation system which is to be located on such Sidewalk, Public Utility, and Landscape Easement of said LOT.

However, no sidewalks or landscaping shall be installed by any OWNER within such Sidewalk, Public Utility, and Landscape Easement area unless pursuant to such specifications as shall be designated by the DEVELOPER and ARCHITECTURAL REVIEW BOARD.

Following the initial construction and installation of any sidewalks and landscaping within the Sidewalk, Public Utility, and Landscape Easement areas, and upon acceptance in writing from the ASSOCIATION, the maintenance and repair of the LANSING ISLAND sidewalk and landscaping system shall be the responsibility of the ASSOCIATION. In that regard, each OWNER is hereby advised that, notwithstanding the creation, declaration, and reservation of the Sidewalk, Public Utility, and Landscape Easements, the installation of landscaping or sidewalks may not ever be constructed within the Sidewalk, Public Utility, and Landscape Easement areas unless the DEVELOPER shall determine that sidewalks shall be constructed thereon.

It is expressly provided that the construction and installation of driveways, driveway approaches, and a mailbox within the Sidewalk, Public Utility, and Landscape Easement areas shall be permitted encroachments into such Sidewalk, Public Utility, and Landscape Easement areas and shall be the property of the OWNER and the OWNER shall be responsible for maintenance of these items.

- 11.10 Shoreline Protection Easement. There is hereby created, declared, granted, and reserved for the benefit of the DEVELOPER, the CITY, and the ASSOCIATION a twenty-foot (20') wide easement for the protection of the wetlands shoreline vegetation of the SUBJECT PROPERTY. Said shoreline protection easement shall be located beginning at the mean low water line and extend for a total distance of 20 feet landward on each waterfront lot, but shall not extend upland a distance greater than ten feet (10') from the PLAT closing line as shown on the PLAT.

Land and water areas within the shoreline protection easement must remain predominantly in their natural scenic, open, or wooded conditions, retaining such areas as suitable habitat for fish, plants, or wildlife; or retaining the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance; or maintaining existing land uses which limit or prohibit all of the following as administered by the ASSOCIATION or the DEVELOPER:

- A. Construction of or placing any IMPROVEMENTS or other structures on or above the ground.
- B. Dumping or placing soil, trash, or other offensive substances on or above the ground.
- C. Removal or destruction of trees, shrubs, or other vegetation.
- D. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other materials or substances in such a manner as to affect the surface.
- E. Use of surface, except for those uses which permit the land or water areas to remain predominantly in their natural conditions.
- F. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
- G. Acts or uses detrimental to such retention of land or water areas.
- H. Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archeological, or cultural significance.

This section may be enforced by the ASSOCIATION, CITY, and the St. Johns River Water Management District. Nothing set forth herein shall prohibit the DEVELOPER from incorporating modifications which are permitted or required by any governmental agency.

All mangroves within the SUBJECT PROPERTY and the shoreline protection easement are protected by State law. Any mangrove "alteration" (see Chapter 17-27.020(1) F.A.C.) is prohibited by State rule, unless the OWNER applies for a permit requesting such alteration. "Selective trimming" of mangroves is allowed by an OWNER without a State permit if the activity complies with the specific criteria set forth in Chapter 17-27.060(2) F.A.C. A copy of Chapter 17-27 F.A.C. is available from the ASSOCIATION upon request.

Prior to issuance of any approval for a modification within the shoreline protection easement, the OWNER must provide the following to the ASSOCIATION: Scope and description of work being proposed, copies of State permits (if required), and site plan (drawn to scale) of LOT's shoreline protection easement showing all existing structures and locations of all wetlands materials and proposed modifications.

- 11.11 Construction and Sales Easements. There is hereby created, declared, granted, and reserved for the benefit of the DEVELOPER, together with the right to grant, assign, and transfer the same to the DEVELOPER's sales agents and sales representatives, Real Estate Broker, or any Real Estate Sales Agents as engaged by the DEVELOPER, as well as to builders or building contractors approved by DEVELOPER for the construction of residences within LANSING ISLAND as provided in Section 7.5 of this DECLARATION, an easement for construction activities upon SUBJECT PROPERTY and an easement for sales activities and signs on SUBJECT PROPERTY and for the maintenance on SUBJECT PROPERTY from time to time of a Sales and Administrative Center in which and from which the DEVELOPER and its authorized sales agents and sales representatives and approved builders and building contractors may engage in exhibit, sales, and administrative activities of a commercial nature on a temporary basis during the period of the development of and construction within LANSING ISLAND.

Provided, however, that such exhibit, sales, and administrative activity shall be conducted from and within a building constructed as a single family residential dwelling which is temporarily used for such exhibit, sales, and administrative activities and which is thereafter to be sold, used, and occupied as a single family residential dwelling. The location of such Sales and Administrative Center within LANSING ISLAND may be changed from time to time by the DEVELOPER, in its sole and absolute discretion.

11.12 COMMON PROPERTY Easement. There is hereby created, declared, granted, and reserved for the benefit of the DEVELOPER, the ASSOCIATION, and each OWNER a non-exclusive easement upon and the right and privilege of using any or all of the COMMON PROPERTY, including, without limitation, the COMMON STREETS AND ROADS and BRIDGE for ingress, and egress, and for the passive recreation, health, safety, and welfare of the residents of and visitors to SUBJECT PROPERTY. The easement and right to use and enjoy the COMMON PROPERTY, however, shall be subject to regulation by the ASSOCIATION, including the right of the ASSOCIATION to suspend such use and enjoyment as more particularly provided in Section 8.7 of this DECLARATION.

11.13 ASSOCIATION Easement. There is hereby created, declared, and granted to the ASSOCIATION, such easements over and upon all or any portion of the SUBJECT PROPERTY, as may be reasonably necessary to permit the ASSOCIATION to carry out and discharge its duties, obligations, and responsibilities under and pursuant to this DECLARATION and the ARTICLES, BY-LAWS, and RULES AND REGULATIONS of the ASSOCIATION.

Such ASSOCIATION Easement shall be in addition to the Drainage Easements hereinabove granted to the ASSOCIATION pursuant to Sections 11.5-7 of this DECLARATION for the purpose of constructing, installing, inspecting, maintaining, repairing, and replacing any and all portions of and facilities comprising the SURFACE WATER MANAGEMENT SYSTEM for LANSING ISLAND.

11.14 Future Easements. There is hereby reserved to the DEVELOPER and its successors and assigns, together with the right to grant and transfer the same, the right, power, and privilege to, at any time hereafter, grant to itself, the ASSOCIATION, the CITY, or any other parties such other further and additional easements as may be reasonably necessary or desirable, in the sole opinion and within the sole discretion of the DEVELOPER, for the future orderly development of LANSING ISLAND in accordance with the objects and purposes set forth in this DECLARATION.

It is expressly provided, however, that no such further or additional easements shall be granted or created over and upon any LOT pursuant to the provisions of this Section if any such easement shall unreasonably interfere with the presently contemplated or future use and development of a particular LOT as a single family residential home site.

The easements contemplated by this Section may include, without limitation, such easements as may be required for utility, drainage, road right-of-way or other purposes reasonably related to the orderly development of LANSING ISLAND in accordance with the objects and purposes specified in this DECLARATION. Such further or additional easements may be hereafter created, granted, or reserved by the DEVELOPER without the necessity for the consent or joinder of the OWNER of the particular portion of the SUBJECT PROPERTY over which any such further or additional easement is granted or required.

ARTICLE XII

ARCHITECTURAL AND LANDSCAPE CONTROL

12.1 Reservation of Architectural and Landscape Control. In order to ensure that the development of LANSING ISLAND will proceed pursuant to a uniform plan of development and construction of the highest quality, and in accordance with consistently high architectural, ecological, environmental, and aesthetic standards which are designed and calculated to bring about the achievement and creation of and to thereafter maintain, preserve, and protect with LANSING ISLAND a unique, pleasant, attractive, and harmonious physical environment, the DEVELOPER shall have and hereby reserves exclusively unto itself, for the duration hereinafter specified, the right, privilege, power, and authority to review, prevent, approve, modify, and otherwise control the design, placement, construction, erection, materials used, and installation of any and all buildings, structures, and other IMPROVEMENTS of any kind, nature, or description, including landscaping, upon any LOT and all COMMON PROPERTY. Such right and control of the DEVELOPER shall be exercised in the manner hereinafter provided in this Article XII.

12.2 ARCHITECTURAL REVIEW BOARD. The architectural and landscape review and control functions expressly reserved by and unto to the DEVELOPER pursuant to Section 12.1 of this DECLARATION, as aforesaid, shall be and are hereby delegated by DEVELOPER to and shall be administered and performed on behalf of DEVELOPER by a ARCHITECTURAL REVIEW BOARD composed of not less than three (3) nor more than seven (7) PERSONS appointed from time to time as hereinafter provided in Section 12.3 of this DECLARATION. The members of the ARCHITECTURAL REVIEW BOARD need not be OWNERS or members of the ASSOCIATION. Among the members of the ARCHITECTURAL REVIEW BOARD there shall always be at least one licensed architect, and two representatives of the DEVELOPER. One member may satisfy any two (2) or more of the foregoing requirements with respect to the composition of the ARCHITECTURAL REVIEW BOARD. Two (2) members of the ARCHITECTURAL REVIEW BOARD shall constitute a quorum for the transaction of any and all business of and the rendition of any and all decisions by the ARCHITECTURAL REVIEW BOARD. The action of a majority of such members as are present at a meeting of the ARCHITECTURAL REVIEW BOARD shall determine the action taken by the ARCHITECTURAL REVIEW BOARD at such meeting.

12.3 Appointment of ARCHITECTURAL REVIEW BOARD. Notwithstanding anything to the contrary set forth in or which may otherwise be implied from this DECLARATION or the ARTICLES, BY-LAWS, or RULES AND REGULATIONS of the ASSOCIATION, the DEVELOPER hereby reserves unto itself and shall hereafter have and retain right to appoint and replace from time to time all members of the ARCHITECTURAL REVIEW BOARD until either:

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- a. the expiration of a period of fifteen (15) years from the date of the recordation of this DECLARATION among the Public Records of the COUNTY, or
- b. the sale by the DEVELOPER or its successors or assigns in the ordinary course of business, and not in bulk, of ninety percent (90%) of all contemplated LOTS within LANSING ISLAND, whichever shall first occur.

Following the occurrence of the first of the foregoing events to occur, or at some other time as deemed by the DEVELOPER, the architectural and landscape review and control functions hereinabove reserved by and unto the DEVELOPER shall be delegated and assigned by the DEVELOPER to the ASSOCIATION and thereafter the ASSOCIATION, acting by and through its BOARD, shall have the right to appoint and replace from time to time all members of the ARCHITECTURAL REVIEW BOARD; provided, however, that the ASSOCIATION shall be required at all times to appoint at least one member of the ARCHITECTURAL REVIEW BOARD designated by the DEVELOPER. The DEVELOPER may waive its right to appoint any of the members to the ARCHITECTURAL REVIEW BOARD and thereafter the ASSOCIATION shall have the right to elect those members.

- 12.4 Purpose and Function of ARCHITECTURAL REVIEW BOARD. The purpose and function of the ARCHITECTURAL REVIEW BOARD shall be to:
- a. create, establish, develop, foster, maintain, preserve, and protect within LANSING ISLAND a unique, pleasant, attractive, and harmonious, physical environment grounded in and based upon a uniform plan of development and construction of the highest quality and with consistently high architectural, ecological, environmental, and aesthetic standards, and
 - b. review, prevent, approve, change, and otherwise control the design of any and all buildings, structures, and other IMPROVEMENTS of any kind, nature, or description, including landscaping, to be constructed upon any LOT and all COMMON PROPERTY within LANSING ISLAND. Neither the DEVELOPER, nor the ARCHITECTURAL REVIEW BOARD, or any of its members, shall have any liability or obligation to any PERSON or party whomsoever or whatsoever to check any detail of any plans and specifications or other materials submitted to and approved by it or to inspect any IMPROVEMENTS constructed upon the SUBJECT PROPERTY to assure compliance with any plans and specifications approved by it or to assure compliance with the provisions of the ARCHITECTURAL STANDARDS MANUAL or this DECLARATION.
- 12.5 All IMPROVEMENTS Subject to Approval. No buildings, structures, walls, fences, pools, patios, paving, driveways, docks, decks, sidewalks, landscaping, planting, irrigation, landscape device or object, or other IMPROVEMENTS of any kind, nature, or description, whether purely decorative, functional, or otherwise, shall be commenced, constructed, erected, made, placed, installed or maintained upon SUBJECT PROPERTY, nor shall any change, maintenance, or addition to or alteration or remodeling of the exterior of any previously approved buildings, structures, or other IMPROVEMENTS of any kind, including, without limitation, the painting of the same (other than painting with the same color and type of paint which previously existed) shall be made or undertaken upon SUBJECT PROPERTY except in compliance and conformance with and pursuant to plans and specifications therefor which shall first have been submitted to and reviewed and approved in writing by the ARCHITECTURAL REVIEW BOARD.
- 12.6 Standards for Review and Approval. Any such review by and approval or disapproval of the ARCHITECTURAL REVIEW BOARD shall take into account the objects and purposes of this DECLARATION and the purposes and function of the ARCHITECTURAL REVIEW BOARD. Such review by and approval of the ARCHITECTURAL REVIEW BOARD shall also take into account and include the type, kind, nature, design, style, shape, size, height, width, length, scale, color, quality, quantity, texture, and materials of the proposed building, structure, or other IMPROVEMENT under review, both in its entirety and as to its individual or component parts, in relation to its compatibility and harmony with other, contiguous, adjacent, and nearby structures and other IMPROVEMENTS and in relation to the topography and other physical characteristics of its proposed location and in relation to the character of the LANSING ISLAND community in general. The ARCHITECTURAL REVIEW BOARD shall have the right to refuse to give its approval to the design, placement, construction, erection, or installation of any IMPROVEMENT on the SUBJECT PROPERTY which it, in its sole and absolute discretion, deems to be unsuitable, unacceptable, or inappropriate for LANSING ISLAND.
- 12.7 Architectural Standards and ARCHITECTURAL STANDARDS MANUAL. The ARCHITECTURAL REVIEW BOARD shall develop, adopt, promulgate, publish, and make available to all OWNERS and others who may be interested, either directly or through the ASSOCIATION, at a reasonable charge, and may from time to time change, modify, and amend a manual or manuals setting forth detailed architectural and landscape design standards, specifications, and criteria to be used by the ARCHITECTURAL REVIEW BOARD as a guide or standard for determining compliance with this DECLARATION and the acceptability of those components of development, construction, and improvement of the SUBJECT PROPERTY requiring review and approval by the ARCHITECTURAL REVIEW BOARD.

Any such ARCHITECTURAL STANDARDS MANUAL, together with any changes, modifications, or amendments, must be approved by the DEVELOPER in writing prior to its adoption and promulgation. Any such ARCHITECTURAL STANDARDS MANUAL may include a detailed interpretation or explanation of acceptable standards, specifications, and criteria for a number of typical design elements, including, without limitation, site planning, architectural design, building materials, building construction, landscaping, irrigation, and such other design elements as the ARCHITECTURAL REVIEW BOARD shall, in its sole discretion, determine. Such ARCHITECTURAL STANDARDS MANUAL shall be used by the ARCHITECTURAL REVIEW BOARD and other affected persons only as a guide and shall not be binding upon the ARCHITECTURAL REVIEW BOARD in connection with the exercise of its review and approval functions and ultimate approval or refusal to approve plans and specifications submitted to it pursuant to this DECLARATION.

- 12.8 Procedure for Architectural Review. The ARCHITECTURAL REVIEW BOARD shall develop, adopt, promulgate, publish, and make available to all OWNERS and others who may be interested, either directly or through the ASSOCIATION, at a reasonable charge, and either included within or separate and apart from the ARCHITECTURAL STANDARDS MANUAL, reasonable and practical RULES AND REGULATIONS governing the submission of plans and specifications to the ARCHITECTURAL REVIEW BOARD for its review and approval. Unless such RULES AND REGULATIONS are complied with in connection with the submission of plans and specifications requiring review and approval by the ARCHITECTURAL REVIEW BOARD, plans and specifications shall not be deemed to have been submitted to the ARCHITECTURAL REVIEW BOARD.

Additionally, the ARCHITECTURAL REVIEW BOARD shall be entitled, in its discretion, to establish, determine, charge, and assess a reasonable fee in connection with and for its review, consideration, and approval of plans and specifications pursuant to this Article XII, taking into consideration actual costs and expenses incurred during the review process, including the fees of professional consultants, if any, to and members of the ARCHITECTURAL REVIEW BOARD, as well as taking into account the costs and expenses associated with the development, formulation, and publication of any ARCHITECTURAL STANDARDS MANUAL adopted by the ARCHITECTURAL REVIEW BOARD pursuant to Section 12.7 of this DECLARATION. The initial Architectural Review Fee for the construction of a home shall be Five Hundred and No/100 Dollars (\$500.00). However, such Architectural Review Fee may be increased or decreased by the ARCHITECTURAL REVIEW BOARD from time to time. Fees for other types of IMPROVEMENTS shall be determined by the BOARD from time to time.

- 12.9 Staged Review. The RULES AND REGULATIONS adopted by the ARCHITECTURAL REVIEW BOARD pursuant to Section 12.8 of this DECLARATION should provide for its review and approval functions to be accomplished in three (3) stages:

1. Conceptual (optional)
2. Preliminary
3. Final

Conceptual review and approval shall be for conceptual and initial design development purposes only, in order to avoid unnecessary time and expense associated with the preparation of preliminary or final plans and specifications in connection with the exploration and consideration of the potential acceptability of formative or initial concepts and designs. Any such review and approval of formative or initial concepts or designs by the ARCHITECTURAL REVIEW BOARD shall only be advisory in nature and shall not be binding upon the ARCHITECTURAL REVIEW BOARD in connection with its review and ultimate approval or disapproval of the preliminary and final plans and specifications submitted to it as provided in this DECLARATION. The ARCHITECTURAL REVIEW BOARD, in its discretion, may establish, determine, charge, and assess an additional reasonable fee associated with a conceptual review.

- 12.10 Time Limitation on Review. The ARCHITECTURAL REVIEW BOARD shall either approve or disapprove a complete application submitted to it within thirty (30) days after the same has been duly and completely submitted in accordance with any RULES AND REGULATIONS regarding such submission as shall have been adopted by the ARCHITECTURAL REVIEW BOARD. The failure of the ARCHITECTURAL REVIEW BOARD to either approve or disapprove the same within such 30-day period shall be deemed to be and constitute an approval of such plans, specifications, and other materials; subject, however, at all times to the covenants, conditions, restrictions, and other requirements contained in this DECLARATION and also subject to the provisions of the ARCHITECTURAL STANDARDS MANUAL.

- 12.11 Duration of Approval. Any approval of plans, specifications, and other materials, whether by the ARCHITECTURAL REVIEW BOARD, or by the DEVELOPER or the BOARD of the ASSOCIATION following appeal, shall be effective for a period of one year from the effective date of such approval. If construction or installation of the building, structure, or other IMPROVEMENT for which plans, specifications, and other materials have been approved, has not commenced within said one year period, such approval shall expire, and no construction shall thereafter commence without a resubmission and approval of the plans, specifications, and other materials previously approved. The prior approval shall not be binding upon the ARCHITECTURAL REVIEW BOARD on resubmission in any respect.

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- 12.12 Inspection of Construction. Any member of the ARCHITECTURAL REVIEW BOARD or any officer, director, employee, or agent of the DEVELOPER or ASSOCIATION may, but shall not be obligated to, at any reasonable time enter upon, without being deemed guilty of trespass, any LOT or COMMON PROPERTY and any building structure or other IMPROVEMENT located thereon, in order to ascertain and determine whether or not any such building, structure, or other IMPROVEMENT has been or is being constructed, erected, made, placed, or installed in compliance with this DECLARATION and the plans, specifications, and other materials approved by the ARCHITECTURAL REVIEW BOARD.
- 12.13 Evidence of Compliance. Upon a request therefor from, and at the expense of, any OWNER upon whose LOT the construction, erection, placement, or installation of any building, structure, or other IMPROVEMENT has been completed or is in the process, the ARCHITECTURAL REVIEW BOARD shall cause an inspection of such LOT and the IMPROVEMENTS then located thereon to be undertaken within thirty (30) days, and if such inspection reveals that the buildings, structures, or other IMPROVEMENTS located on such LOT are in compliance with plans, specifications, and other materials approved by the ARCHITECTURAL REVIEW BOARD, the ARCHITECTURAL REVIEW BOARD shall direct the ASSOCIATION through its President, Secretary, or other officer of the ASSOCIATION thereunto duly authorized, upon the payment by the requesting owner of a reasonable fee approximating the actual costs associated with such inspection and the preparation of such notice, to provide to such OWNER a CERTIFICATE OF COMPLIANCE subject to Section 12.17. Such written statement of compliance shall be conclusive evidence of compliance of the inspected IMPROVEMENTS with the provisions of this Article XII as of the date of such inspection.
- 12.14 Interior Alterations Exempt. Nothing contained in this Article XII shall be construed so as to require the submission to or approval of the ARCHITECTURAL REVIEW BOARD of any plans, specifications, or other materials for the reconstruction or alteration of the interior of any building, structure, or other IMPROVEMENT constructed on RESIDENTIAL PROPERTY or COMMON PROPERTY after having been previously approved by the ARCHITECTURAL REVIEW BOARD, unless any proposed interior construction or alteration will have the effect of changing or altering the exterior appearance of such building, structure, or other IMPROVEMENT, or unless specifically stated in the DECLARATION or unless it shall have the effect of materially reducing the retail value of the home and LOT.
- 12.15 DEVELOPER Exempt. The DEVELOPER shall be exempt from compliance with the provisions of this Article XII.
- 12.16 Exculpation for Approval or Disapproval of Plans. The DEVELOPER, any and all members of the ARCHITECTURAL REVIEW BOARD, and any and all officers, directors, employees, agents, and members of the ASSOCIATION, shall not, either jointly or severally, be liable or accountable in damages or otherwise to any OWNER or other PERSON or party whomsoever or whatsoever by reason or on account of any decision, approval, or disapproval of any plans, specifications, or other materials required to be submitted for review and approval pursuant to the provisions of this Article XII, or for any mistake in judgment, negligence, misfeasance, or nonfeasance related to or in connection with any such decision, approval, or disapproval.

Each PERSON who shall submit plans, specifications, or other materials to the ARCHITECTURAL REVIEW BOARD for consent or approval pursuant to the provisions of this Article XII, by the submission thereof, and each OWNER by acquiring title to any LOT or any interest therein, shall be deemed to have agreed that he or it shall not be entitled to and shall not bring any action, proceeding, or suit against the DEVELOPER, the ARCHITECTURAL REVIEW BOARD, the ASSOCIATION, nor any individual member, officer, director, employee, or agent of any of them for the purpose of recovering any such damages or other relief on account of any such decision, approval, or disapproval.

Additionally, plans, specifications, and other materials submitted to and approved by the ARCHITECTURAL REVIEW BOARD, or by DEVELOPER or BOARD of the ASSOCIATION on appeal, shall be reviewed and approved only as to their compliance with the provisions of this DECLARATION and their acceptability of design, style, materials, appearance, and location in light of the standards for review and approval specified in this DECLARATION and the ARCHITECTURAL STANDARDS MANUAL, and shall not be reviewed or approved for their compliance with any applicable GOVERNMENTAL REGULATIONS, including, without limitation, any applicable building or zoning laws, ordinances, rules, or regulations. By the approval of any such plans, specifications, or materials, neither the DEVELOPER, the ARCHITECTURAL REVIEW BOARD, the ASSOCIATION, nor any individual member, officer, director, employee or agent of any of them, shall have assumed or incurred any liability or responsibility whatsoever for any violation of GOVERNMENTAL REGULATIONS or defect in the design or construction of any building, structure, or other IMPROVEMENT, constructed, erected, placed, or installed pursuant to or in accordance with any such plans, specifications, or other materials approved pursuant to this Article XII.

- 12.17 Certificate of Compliance. The ARCHITECTURAL REVIEW BOARD shall have, and hereby reserves exclusively unto itself, the right, privilege, power, and authority to make, issue, and encumber upon any LOT a Certificate of Compliance. Such making, issuance, and encumbrance shall be effected by its recording in the Public Records of the COUNTY. The purpose of said Certificate of Compliance is to make a public notification to all OWNERS, the ASSOCIATION, and others who may be interested, either directly, or through the ASSOCIATION, that all IMPROVEMENTS currently constructed, built, commenced, erected, made, placed, installed, or otherwise changed, modified, or amended upon a LOT are currently in complete compliance with the ARCHITECTURAL REVIEW BOARD, the ARCHITECTURAL STANDARDS MANUAL, and this DECLARATION, and shall remain in compliance in perpetuity, unless the current IMPROVEMENTS are modified, changed, or amended in ~~OFF REC.~~

Said issuance and recording of a Certificate of Compliance by the ARCHITECTURAL REVIEW BOARD shall relieve and remove any reservations, encumbrances, requirements, and approvals associated with the making and issuance of a Notice of Improvement or a Notice of Non-Compliance for any LOT prior to the making, issuing, and recording of said Certificate of Compliance. Said Certificate of Compliance shall be made and issued in the written form as the ARCHITECTURAL REVIEW BOARD shall develop, adopt, promulgate, publish, and otherwise deem appropriate and may from time to time review, change, modify, or amend.

- 12.18 Notice of Improvement. The ARCHITECTURAL REVIEW BOARD shall have, and hereby reserves exclusively unto itself, the right, privilege, power, and authority to make, issue, and encumber upon any LOT a Notice of Improvement. Such Notice of Improvement, at the sole option of the ARCHITECTURAL REVIEW BOARD, may be recorded in the Public Records of the COUNTY. The purpose of said Notice of Improvement shall make a public notification to all OWNERS and the ASSOCIATION and any others who may be interested, that an application has been submitted, reviewed, and received approval pursuant to this DECLARATION, the ARCHITECTURAL STANDARDS MANUAL, the ARCHITECTURAL REVIEW BOARD, and subject to the plans and specifications which are a part of said application for the LOT to grant the OWNER the right to construct, build, commence, erect, make, place, install, or otherwise maintain, change, modify, or amend any IMPROVEMENT on said LOT.

Said Notice of Improvement shall be made, issued, and encumbered upon the approval by the ARCHITECTURAL REVIEW BOARD and shall be issued in the written form as the ARCHITECTURAL REVIEW BOARD shall develop, adopt, promulgate, publish, and otherwise deem appropriate and may from time to time review, change, modify, or amend.

Said Notice of Improvement shall be deemed completely and wholly satisfied, relieved, and removed, along with any and all reservations, requirements, approvals, and encumbrances associated with the issuance of said Notice of Improvement upon the issuance and recording of a subsequent Certificate of Compliance pursuant to Section 12.17 of this DECLARATION.

- 12.19 Notice of Non-Compliance. The ARCHITECTURAL REVIEW BOARD shall have, and hereby reserves exclusively unto itself, the right, privilege, power, and authority to make, issue, and encumber upon any LOT a Notice of Non-Compliance. Such Notice of Non-Compliance, at the sole option of the ARCHITECTURAL REVIEW BOARD, may be recorded in the Public Records of the COUNTY. The purpose of said Notice of Non-Compliance shall make a public notification to all OWNERS, the ASSOCIATION, and others who may be interested, that an improvement, whether or not completed, has been deemed in violation of this DECLARATION, the ARCHITECTURAL STANDARDS MANUAL, or the ARCHITECTURAL REVIEW BOARD.

Said Notice of Non-Compliance shall be made, issued, and encumbered upon approval by the ARCHITECTURAL REVIEW BOARD and shall be issued in the written form as the ARCHITECTURAL REVIEW BOARD shall develop, adopt, promulgate, publish, and otherwise deem appropriate and may from time to time review, change, modify, or amend.

Said Notice of Non-Compliance shall be deemed completely and wholly satisfied, relieved, and removed, along with any and all reservations, requirements, approvals, and encumbrances associated with the issuance of said Notice of Non-Compliance upon the subsequent issuance and recording of a Certificate of Compliance pursuant to Section 12.17 of this DECLARATION.

ARTICLE XIII

AMENDMENT

- 13.1 Amendment by DEVELOPER. Subject to the provisions of Section 13.5 of this DECLARATION until December 31, 1999, the covenants, restrictions, and easements set forth in this DECLARATION may be changed, amended, or modified from time to time by the DEVELOPER in its sole, but reasonable discretion, and without requiring the joinder or consent of any person or party whomsoever, including the ASSOCIATION or any OWNER or OWNERS.

- 13.2 Amendment by ASSOCIATION. Subject to the provisions of Section 13.5 of this DECLARATION, the terms and provisions of and the covenants, restrictions, and easements set forth in this DECLARATION may be changed, amended, or modified at any time and from time to time by the ASSOCIATION upon the affirmative written consent or the vote of not less than seventy-five percent (75%) of the total voting power of the members of the ASSOCIATION; provided, however, that until December 31, 1999, no such change, amendment, or modification by the ASSOCIATION shall be effective without the DEVELOPER's express written joinder and consent.

- 13.3 Manifestation of Requisite Consent. In the case of any change, amendment, or modification of this DECLARATION by the ASSOCIATION which requires the affirmative written consent or vote of members of the ASSOCIATION as hereinabove provided in Section 13.2, the acquisition of the requisite written consent or vote of members shall be manifested on the face of the amending instrument in a certificate duly executed and sworn to before a Notary Public by the President and Secretary of the ASSOCIATION affirmatively stating that such requisite affirmative written consent or vote has, in fact, been acquired or obtained prior to the recordation of such amending instrument among the Public Records of the COUNTY. Such certificate shall be and constitute conclusive evidence of the satisfaction of the provisions of Section 13.2 of this DECLARATION with respect to the change, amendment, or modification of this DECLARATION effected by the amending instrument of which such certificate is made a part.
- 13.4 Effectiveness of Amendments. All changes, amendments, or modifications of this DECLARATION shall be manifested in a written amending instrument duly executed by the DEVELOPER or the ASSOCIATION, or both, as may from time to time be required pursuant to the provisions of this Article XIII, and shall be duly recorded among the Public Records of the COUNTY. Such change, amendment, or modification of this DECLARATION shall be effective as of the date of such recordation or such later date as may be specified in the amending instrument itself.
- 13.5 Limitations on Amendments. Notwithstanding anything to the contrary set forth in this DECLARATION, the rights of the DEVELOPER and the ASSOCIATION to change, amend, or modify the terms and provisions of and the covenants, restrictions, and easements set forth in this DECLARATION shall at all times be subject to and limited and restricted as follows, to wit:
- a. To the extent that particular rights or interests are expressly conferred upon or granted to the CITY pursuant to this DECLARATION, the particular terms and provisions of this DECLARATION pursuant to which any such rights and interests are conferred upon and granted to the CITY shall not be changed, amended, or modified without the prior written consent and joinder of the CITY.
 - b. This DECLARATION may not be changed, amended, or modified in such manner as to terminate or eliminate any easements granted or reserved herein to the DEVELOPER, the ASSOCIATION, the CITY, or to the COUNTY, respectively, without the prior written approval of the DEVELOPER, the ASSOCIATION, the COUNTY, or the CITY, as the case may be, and any attempt to do so shall be void and of no force and effect.
 - c. This DECLARATION may not be changed, amended, or modified in any fashion which will result in or facilitate the dissolution of the ASSOCIATION or the abandonment or termination of the obligation of the ASSOCIATION to maintain the COMMON PROPERTY, including specifically the COMMON STREETS AND ROADS, the BRIDGE or the SURFACE WATER MANAGEMENT SYSTEM, and/or the obligation of the ASSOCIATION to establish, make, levy, enforce, and collect ASSESSMENTS for such purposes, unless said COMMON PROPERTY(s) are dedicated to a governmental authority who may assume said responsibilities.
 - d. This DECLARATION may not be changed, amended, or modified in any fashion which would affect the SURFACE WATER MANAGEMENT SYSTEM, or its maintenance by the ASSOCIATION, without the prior written consent and approval of the St. Johns River Water Management District.
 - e. This DECLARATION may not be changed, amended, or modified in such fashion as to change, amend, modify, eliminate, or delete the provisions of this Section 13.5 of this DECLARATION without the prior written consent and joinder of the DEVELOPER, in any case, and to the extent of any proposed change, amendment, or modification which shall affect the rights of the COUNTY, the CITY, or the St. Johns River Water Management District hereunder, the same shall require the written consent and joinder of the COUNTY, the CITY, or the St. Johns River Water Management District, as the case may be.

ARTICLE XIV

DURATION

The covenants, restrictions, and easements set forth in this DECLARATION shall continue and be binding upon the DEVELOPER and the ASSOCIATION and upon each OWNER and all OWNERS from time to time of any portion of the SUBJECT PROPERTY and their respective successors and assigns and all other PERSONS, parties, or legal entities having or claiming any right, title, or interest in the SUBJECT PROPERTY, by, through, or under any of them, for a period of sixty (60) years from the date this DECLARATION is recorded among the Public Records of the COUNTY, after which time this DECLARATION and the covenants, restrictions, and easements set forth herein, as the same shall have been changed, amended, or modified from time to time, shall be automatically extended for successive periods of ten (10) years unless an instrument of termination executed by the DEVELOPER (or its successor in title) and the ASSOCIATION upon the affirmative written consent or the vote of not less than ninety-five percent (95%) of the total voting power of the members of the ASSOCIATION (certified as provided in Section 13.3 of this DECLARATION), with the consent and joinder of the COUNTY and CITY, shall be recorded among the Public Records of the COUNTY at least one year prior to the end of the initial term or any subsequent extension term of this DECLARATION.

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Each of the easements herein declared to be created, granted, or reserved shall continue to be binding upon the DEVELOPER and the ASSOCIATION and upon each OWNER and all OWNERS from time to time of any portion of the SUBJECT PROPERTY and their respective successors and assigns and all PERSONS, parties, and legal entities claiming by, through, or under any of them in perpetuity, unless any such easement shall have been changed, amended, modified, released, or terminated by the execution and recordation among the Public Records of the COUNTY of a written instrument or Court order, as the case may be, which, in either case, is otherwise legally sufficient in all respects to effect any such change, amendment, modification, release, or termination of any such easement.

ARTICLE XV

ENFORCEMENT

- 15.1 Parties Entitled to Enforce. Subject to the provisions of Section 15.2 of this DECLARATION, the terms, provisions, covenants, restrictions, and easements set forth in this DECLARATION, as changed, amended, or modified from time to time, shall be enforceable by the DEVELOPER, the ASSOCIATION and any OWNER. Additionally, to the extent that particular rights or interests are expressly conferred upon or granted to the CITY pursuant to this DECLARATION, the particular terms and provisions of this DECLARATION conferring or granting such rights or interests to the CITY shall also be enforceable by the CITY. Those so entitled to enforce the provisions of this DECLARATION shall have the right to bring proceedings at law or in equity against the party or parties violating or attempting to violate any of said covenants, restrictions, and easements or against the party or parties defaulting or attempting to default in his, its, or their obligations hereunder in order to:
- a. enjoin any such violation or attempted violation or any such default or attempted default,
 - b. cause any such violation or attempted violation or default to be cured, remedied, or corrected,
 - c. recover damages resulting from or occasioned by or on account of any such violation or attempted violation or default or attempted default, and
 - d. recover reasonable costs and expenses, including attorneys' fees, incurred in connection with the enforcement of this DECLARATION.
- 15.2 Limitations on Enforcement Rights. Notwithstanding the foregoing provisions of Section 15.1 of this DECLARATION, the right to enforce the provisions of this DECLARATION shall be subject to and limited by the following provisions, to wit:
- a. The ASSOCIATION shall have the exclusive right to collect ASSESSMENTS and enforce ASSESSMENT liens.
 - b. The ASSOCIATION shall have the exclusive right to assess and collect fines.
 - c. Only the DEVELOPER and the ASSOCIATION shall have the right to enforce the provisions of Article XII of this DECLARATION with respect to Architectural and Landscape Control.
- It is expressly provided, however, that if both the DEVELOPER and the ASSOCIATION fail, refuse, or are unable to commence enforcement of such provisions within thirty (30) days following written demand to do so from any OWNER, any OWNER who makes such demand and who otherwise has standing to do so, shall have the right to enforce the provisions of said Article XII; provided, however, that such right of enforcement shall not include the right to seek judicial review of discretionary decisions made either by the DEVELOPER, the ASSOCIATION, or the ARCHITECTURAL REVIEW BOARD where the discretion to make such decisions is expressly conferred pursuant to this DECLARATION.
- d. To the extent that specific rights, interests, or reservations are conferred upon or granted or reserved to specific parties pursuant to this DECLARATION only those parties upon or to whom or which such rights, interests, or reservations are conferred, granted, or reserved shall have the right to enforce the provisions of this DECLARATION relating to such rights, interests, or reservations.
- 15.3 Right of ASSOCIATION to Evict Tenants, Occupants, Guests, and Invitees. With respect to any tenant or any PERSON present in any UNIT or any portion of the SUBJECT PROPERTY, other than an OWNER and the members of his immediate family permanently residing with him in the UNIT, if such PERSON shall materially violate any provision of this DECLARATION, the ARTICLES, or the BY-LAWS, or shall create a nuisance or an unreasonable and continuous source of annoyance to the residents of the SUBJECT PROPERTY, or shall willfully damage or destroy any COMMON AREAS or personal property of the ASSOCIATION, then upon written notice by the ASSOCIATION, such PERSON shall be required to immediately leave the SUBJECT PROPERTY and, if such PERSON does not do so, the ASSOCIATION is authorized to commence an action to evict such tenant or compel the PERSON to leave the SUBJECT PROPERTY, and, where necessary, to enjoin such PERSON from returning. The expense of any such action, including attorneys' fees, may be assessed against the applicable OWNER, and the ASSOCIATION may collect such ASSESSMENT and have a lien for same as elsewhere provided. The foregoing shall be in addition to any other remedy of the ASSOCIATION.

- 15.4 Attorneys' Fees. In the event that legal or equitable proceedings are instituted or brought to enforce any of the provisions set forth in this DECLARATION, as changed, amended, and modified from time to time, or to enjoin any violation or attempted violation or default or attempted default of the same, the prevailing party in such proceeding shall be entitled to recover from the losing party such reasonable attorneys' fees and court costs as may be awarded by the Court rendering judgment in such proceedings.
- 15.5 Fines. The amount of any fine shall be determined by the BOARD, and shall not exceed one-third of one month's ASSESSMENT for COMMON EXPENSES for the first offense, and two-thirds of one month's ASSESSMENT for COMMON EXPENSES for a second similar offense, and one month's ASSESSMENT for COMMON EXPENSES for a third and each subsequent similar offense. Any fine or summary of fines for similar violations shall be imposed by written notice to the OWNER or tenant, signed by an officer of the ASSOCIATION, which shall state the amount of the fine, the violation for which the fine is imposed, and shall specifically state that the OWNER or tenant has the right to contest the fine by delivering written notice to the ASSOCIATION within ten (10) days after receipt of the notice imposing the fine. If the OWNER or tenant timely and properly objects to the fine, the BOARD shall conduct a hearing within thirty (30) days after receipt of the OWNER's or tenant's objection, and shall give the OWNER or tenant not less than ten (10) days written notice of the hearing date.
- At the hearing, the BOARD shall conduct a reasonable inquiry to determine whether the alleged violation in fact occurred, and that the fine imposed is appropriate. The OWNER or tenant shall have the right to attend the hearing and to produce evidence on his behalf. At the hearing the BOARD shall ratify, reduce, or eliminate the fine and shall give the OWNER or tenant written notice of its decision. Any fine shall be due and payable within ten (10) days after written notice of the BOARD's decision at the hearing. Any fine levied against an OWNER shall be deemed an ASSESSMENT, and if not paid when due, all of the provisions of this DECLARATION relating to the late payment of ASSESSMENTS shall be applicable. If any fine is levied against a tenant and is not paid within ten (10) days after same is due, the ASSOCIATION shall have the right to evict the tenant pursuant to Paragraph 15.3.
- 15.6 No Waiver. Failure by the DEVELOPER, the ASSOCIATION, and OWNER, or the CITY (only to the extent any right of enforcement is otherwise granted to or conferred upon the CITY pursuant to this DECLARATION), to enforce any covenant, restriction, or easement herein contained in any particular instance or on any particular occasion shall not be deemed a waiver of the right to do so upon any subsequent violation or attempted violation or default or attempted default of the same or any other covenant, restriction, or easement contained herein.
- 15.7 Nuisance. The result of every act or omission, where any term or provision of, or covenant, restriction, or easement set forth in, this DECLARATION is violated, breached, or in default in whole or in part, is hereby declared to be and constitute a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result, and may be exercised by the DEVELOPER, the ASSOCIATION, or any OWNER.
- 15.8 Cumulative Rights and Remedies. In connection with the enforcement of this DECLARATION, all rights and remedies of the DEVELOPER, the ASSOCIATION, the OWNERS, and the CITY, to the extent provided herein, shall be cumulative, and no single right or remedy shall be exclusive of any other, and DEVELOPER, the ASSOCIATION, the OWNERS, and the CITY, to the extent specifically provided in this DECLARATION, shall have the right to pursue any one or all of such rights or remedies or any other remedy or relief which may be provided by law, whether or not expressly stated in this DECLARATION or otherwise.
- 15.9 Exculpation. The DEVELOPER, the ASSOCIATION, the ARCHITECTURAL REVIEW BOARD, and the individual members, officers, directors, employees, or agents of any of them, shall not, jointly or severally, be liable or accountable in damages or otherwise to any OWNER or other party affected by this DECLARATION, or to anyone submitting plans or other materials for any required consent or approval hereunder, by reason or on account of any decision, approval, or disapproval required to be made, given, or obtained pursuant to the provisions of this DECLARATION, or for any mistake in judgment, negligence, or nonfeasance related to or in connection with any such decisions, approval, or disapproval.

Each PERSON who shall submit plans or other materials for consent or approval pursuant to this DECLARATION, by the submission thereof, and each OWNER of any LOT, by acquiring title thereto or an interest therein, shall be deemed to have agreed that he or it shall not be entitled to bring and shall not bring any action, proceeding, or suit against the DEVELOPER, the ASSOCIATION, the ARCHITECTURAL REVIEW BOARD, or any individual member or members, officer or officers, director or directors, employee or employees, or agent or agents of any of them for the purpose of recovering any such damages or other relief on account of any such decision, approval, or disapproval.

ARTICLE XVI

POWER AND AUTHORITY OF LOCAL GOVERNMENTS

16.1 Power of the Cities of Indian Harbour Beach and Satellite Beach to Maintain Common Areas and Facilities and to Assess Costs Thereof

16.1.1 Definitions. For purposes of this Section, the definitions in Article I of this DECLARATION shall apply. In addition, the following terms shall have the following meanings:

- A. "Indian Harbour Beach" shall mean the municipal corporation known as the City of Indian Harbour Beach.
- B. "Satellite Beach" shall mean the municipal corporation known as the City of Satellite Beach.
- C. "Drawbridge" shall mean the movable span bridge over the Flamingo Waterway within Indian Harbour Beach, which gives access to the lands which are subject to this DECLARATION.
- D. "Benefit" and "benefitted" shall refer to the use of common facilities of the subdivision in any way and to services provided by such facilities to any LOT. A LOT shall be deemed to be benefitted by a common facility if such facility serves such LOT or property in any way. The drawbridge shall be deemed to benefit all LOTS in the subdivision, and a given street or drainage facility shall be deemed to benefit all LOTS given access by such street or drained by such facility.

16.1.2 Power of Cities to Provide Maintenance. Indian Harbour Beach and Satellite Beach shall have the power and authority, but not the obligation, to provide maintenance and repairs to streets, drainage facilities, and other facilities in the COMMON AREAS of the subdivision as necessary to provide for the health, safety, and welfare of the OWNERS of LOTS in each respective city. In addition, Indian Harbour Beach shall have the same power and authority, but not the obligation, with respect to the drawbridge and to any street in Indian Harbour Beach which provides ingress and egress to the drawbridge.

As a pre-requisite to the exercise of such power and authority, the governing body of the city desiring to exercise the same shall adopt a resolution finding that the ASSOCIATION has failed to maintain or repair a common facility identified in the resolution to those standards or specifications set forth in the applicable ordinances or construction codes which are generally applicable to similar public facilities.

Nothing in this Subsection shall be deemed to require either city to exercise the power provided herein if either city council, in its discretion, elects not to provide the maintenance and repair work which is the subject of this Section.

16.1.3 Right of Assessment to Pay the Costs of Maintenance or Repair of Common Areas. In the event that either Indian Harbour Beach or Satellite Beach makes the determination as provided in the preceding subsection that the city in question will provide maintenance or repair to a common facility of the subdivision, that city shall have the power under this DECLARATION to assess all costs thereof (including, but not limited to, inspection, engineering, advertising, legal, construction, and administration costs) to the OWNERS of LOTS benefitted by such maintenance or repairs.

The said Assessment may be accomplished by resolution using the methods and procedures set forth for municipal special assessments in Chapter 170, Florida Statutes, or any other method provided by law; provided, however, that the Assessments described herein may, at the discretion of either city's governing board, be made for all purposes generally described in this section, including those purposes not described in the said Chapter 170.

At a minimum, the resolution establishing the Assessment provided for herein shall set forth the total amount of the Assessment and shall allocate the said total Assessment among the LOTS benefitted by the maintenance or repairs for which the Assessment is made. Such allocation shall be made in proportion to the amount of benefit, based upon a formula or other method of allocation determined by the governing body of the city, taking into account all circumstances of the proposed Assessment program and the benefit resulting therefrom.

No Assessment made pursuant to this Section shall become final unless and until all OWNERS of LOTS subject to the Assessment have been notified in writing mailed to such OWNERS' addresses shown in the most recent tax roll and the city has conducted a public hearing at which such OWNERS have had the opportunity to appear and be heard with respect to the Assessment. Failure of an OWNER to receive said notice shall not be deemed to be sufficient reason to invalidate any Assessment made hereunder.

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16.1.4 Declaration of Assessment; Interest on Installment Payments. An Assessment made by Indian Harbour Beach or Satellite Beach as authorized in this Section may be payable in a single installment or in annual installments over a period of not more than five (5) years, in the sole discretion of the city imposing the Assessment. If the city elects to collect any Assessment in installments, the principal sum shall be payable in equal payments, and interest at the rate of twelve percent (12%) per annum shall be payable on the unpaid balance, beginning ninety (90) days after adoption of the resolution confirming the Assessment. In no event shall any initial payment of any Assessment be due sooner than ninety (90) days after adoption of the final resolution confirming the Assessment.

16.1.5 Lien for Payment of Assessments; Foreclosure. When the final Assessment roll for an Assessment provided for in this section is adopted by either Indian Harbour Beach or Satellite Beach, and a certified copy thereof is recorded in the Public Records of Brevard County, the city making the Assessment shall have a lien on each LOT, subject to the Assessment, in the full amount of the principal Assessment and all interest thereon. Such lien shall have a priority relating back to the date of recording of this DECLARATION.

The city holding any lien described in this Subsection shall have the right to foreclose such lien by bringing an action for foreclosure in the Circuit Court of Brevard County. No such action shall be brought unless the payment of an Assessment, or any installment thereof is more than ninety (90) days past due. The city bringing an action to foreclose an Assessment lien as described in this Subsection shall be entitled to an award of a reasonable attorney's fee and court costs in addition to a judgment for the principal balance of the Assessment and interest thereon.

16.1.6 Geographical Extent of Assessments. Indian Harbour Beach and Satellite Beach shall have the Assessment power described in this Section for those maintenance and repair projects within their respective corporate limits. Notwithstanding the restriction set forth in the preceding sentence, Indian Harbour Beach shall have the power under this DECLARATION, as a covenant running with the title to LOTS in the SUBDIVISION, to assess the OWNERS of all LOTS, including those LOTS within Satellite Beach, for the costs of repair and maintenance of the drawbridge and of repair or maintenance of streets which provide ingress and egress between the drawbridge and the LOTS being assessed.

16.2 Authority for Law Enforcement. The police departments of the Cities of Indian Harbour Beach and Satellite Beach are hereby requested by the DEVELOPER to exercise full power for enforcement of all federal, state, county, and city laws and ordinances to the same extent as generally done elsewhere within the said cities, including enforcement of traffic laws and ordinances on the streets of the SUBDIVISION. This Section shall be deemed to be a grant by the DEVELOPER and the OWNERS of all LOTS in the subdivision of full authority for access to all of the SUBJECT PROPERTY for such purposes.

16.3 Limitations on Access. The BRIDGE and the COMMON STREETS AND ROADS shall not be used for access to any property, land, parcel, or facility other than the LOTS and the COMMON PROPERTY in the SUBDIVISION and similar lots and common property (exclusive of public lands) located to the immediate north of the SUBDIVISION without all of the following:

- a. A resolution of the governing body of Indian Harbour Beach consenting to such other use and access;
- b. A resolution of the governing body of Satellite Beach consenting to such other use and access; and
- c. The written consent of a minimum of seventy-five percent (75%) of the OWNERS of LOTS in the SUBDIVISION.

The provisions of this paragraph shall not be amended in any way without obtaining the consents described in sub-paragraphs a, b, and c above.

ARTICLE XVII

MISCELLANEOUS PROVISIONS

17.1 Constructive Notice and Acceptance. Every PERSON, corporation, partnership, limited partnership, trust, association, or other legal entity, who or which shall hereafter have, claim, own, or acquire any right, title, interest, or estate in or to any portion of the SUBJECT PROPERTY, whether or not such interest is reflected upon the Public Records of Brevard County, Florida, shall be conclusively deemed to have consented and agreed to each and every covenant, restriction, and easement contained or by reference incorporated in this DECLARATION (including those matters set forth in the ARCHITECTURAL STANDARDS MANUAL as amended from time to time), and any published RULES AND REGULATIONS of the ASSOCIATION controlling the use of all residential LOTS and COMMON PROPERTY, whether or not any reference to this DECLARATION is contained in the document or instrument pursuant to which such PERSON, corporation, partnership, limited partnership, trust, association, or other legal entity shall have acquired such right, title, interest, or estate in the SUBJECT PROPERTY or any portion thereof.

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- 17.2 Personal Covenants. To the extent that the acceptance or conveyance of a LOT creates a personal covenant between the OWNER of such LOT and the DEVELOPER, the ASSOCIATION, or any other OWNER or OWNERS, such personal covenant shall terminate and be of no further force or effect from or after the date when a PERSON or entity ceases to be an OWNER, except to the extent that this DECLARATION may provide otherwise with respect to the personal obligation of such OWNER for the payment of Assessments for which provision is expressly made in this DECLARATION.
- 17.3 Governing Law. This DECLARATION and the interpretation and enforcements of the same shall be governed by and construed in accordance with the laws of the State of Florida.
- 17.4 Construction. The provisions of this DECLARATION shall be liberally construed so as to effectuate and carry out the objects and purposes specified in Article II of the ARTICLES.
- 17.5 Article and Section Headings. Article and Section headings contained in the DECLARATION are for convenience and reference only and in no way define, describe, extend, or limit the intent, scope, or content of the particular Articles or Sections in which they are contained or to which they refer and, accordingly, the same shall not be considered or referred to in resolving questions of interpretation or construction.
- 17.6 Singular Includes Plural, Etc. Whenever the context of this DECLARATION requires the same, the singular shall include the plural and the plural the singular and the masculine shall include the feminine and the neuter.
- 17.7 Time of Essence. Time is of the essence for this DECLARATION and in the performance of all covenants, restrictions, and easements set forth herein. Whenever a date or the expiration of any time period specified herein shall fall on a Saturday, Sunday, or legal holiday, the date shall be extended to the next succeeding business day which is not a Saturday, Sunday, or legal holiday.
- 17.8 Notice. Any notice required or permitted to be given pursuant to the provisions of this DECLARATION, the ARTICLES, or the BY-LAWS shall be in writing and may be delivered as follows:
- 17.8.1 Notice to OWNER. Notice to an OWNER shall be deemed to have been properly delivered when delivered to the OWNER's LOT, whether said OWNER personally receives said notice or not (providing OWNER resides on said LOT), or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such OWNER in writing to the ASSOCIATION for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such OWNER's LOT. Any notice so deposited in the mail within the COUNTY shall be deemed delivered forty-eight (48) hours after such deposit. In the case of co-owners, any such notice may be delivered or sent to any one of the co-owners on behalf of all co-owners and shall be deemed to be and constitute delivery on all such co-owners.
- 17.8.2 Notice to ASSOCIATION. Any notice required or permitted to be given to the ASSOCIATION shall be in writing and shall be deemed to have been properly delivered forty-eight (48) hours after the time when such notice is placed in the first class certified United States mail, postage prepaid, and with return receipt requested, within the COUNTY to the address furnished by the ASSOCIATION or to the address of the principal place of business of the ASSOCIATION.
- 17.8.3 Notice to the DEVELOPER. Any notice required or permitted to be given to the DEVELOPER shall be in writing and shall be deemed to have been properly delivered forty-eight (48) hours after the time when such notice is placed in the first class certified United States mail, postage prepaid, and with return receipt requested, within the COUNTY to the address furnished by the DEVELOPER to the ASSOCIATION or to the address of the principal place of business of the ASSOCIATION.
- 17.8.4 Affidavit. The affidavit of an officer or authorized agent of the ASSOCIATION declaring under penalty or perjury that a notice has been served to any member at the address shown on the records of the ASSOCIATION, or otherwise in accordance with Section 7.3 of the BY-LAWS, shall be deemed conclusive proof of the delivery of such notice, whether or not such notice is actually received.
- 17.9 Development and Construction by DEVELOPER. Nothing set forth in this DECLARATION shall be deemed, either expressly or impliedly, to limit the right of the DEVELOPER to change, alter, or amend its development plan or plans for the SUBJECT PROPERTY, or to construct such IMPROVEMENTS as the DEVELOPER deems advisable prior to the completion of the development of all of the SUBJECT PROPERTY. DEVELOPER reserves the right to alter its development and construction plans and designs as it deems appropriate from time to time; subject, however, to all applicable GOVERNMENTAL REGULATIONS, including, without limitation, those of the CITY.
- 17.10 Assignment of DEVELOPER's Rights and Interests. The rights and interests of the DEVELOPER under this DECLARATION may be transferred and assigned by the DEVELOPER to any successor or successors to all or part of the DEVELOPER's ~~DEVELOPER'S~~ ^{DEVELOPER'S} INTERESTS in the SUBJECT PROPERTY by an express transfer, conveyance, or assignment incorporated into any recorded deed or other instrument, as the case may be, transferring, conveying, or assigning such rights and interests to such successor.

- 17.11 Conflicts. In the event of any conflict between the ARTICLES and the BY-LAWS and this DECLARATION, this DECLARATION, the ARTICLES, and the BY-LAWS, in that order, shall control.
- 17.12 Authority of ASSOCIATION and Delegation. Nothing contained in this DECLARATION shall be deemed to prohibit the BOARD from delegating to any one of its members, or to any officer, or to any committee or any other PERSON, any power or right granted to the BOARD by this DECLARATION including, but not limited to, the right to exercise architectural control and to approve any deviation from any use restriction, and the BOARD is expressly authorized to so delegate any power or right granted by this DECLARATION.
- 17.13 Effect of Invalidation. If in the course of an attempt to enforce this DECLARATION, any particular provision of this DECLARATION is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.
- 17.14 No Warranties. This DECLARATION is made for the objects and purposes set forth in Article II of this DECLARATION and the DEVELOPER makes no warranties or representations, express or implied as to the binding effect or enforceability of all or any portion of the terms and provisions of or the covenants, restrictions, and easements set forth in this DECLARATION, or as to the compliance of any of the same with public laws, ordinances, and regulations applicable thereto.

IN WITNESS WHEREOF, the DEVELOPER has caused this DECLARATION to be made and executed as of the day and year first above written.

Signed, sealed, and delivered in the presence of:

Cheriff R. Thompson
Joanna H. Segura
Cheriff R. Thompson
Joanna H. Segura

LANISING ISLAND DEVELOPMENT CORP.
David T. McWilliams, President
 ATTEST:
Joel S. Moss, Secretary
David T. McWilliams, Trustee

STATE OF FLORIDA
 COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 9th day of June, 1989 by David T. McWilliams, President, and Joel S. Moss, Secretary, of Lansing Island Development Corp., a Florida corporation authorized to do business in the State of Florida.

Joanna H. Segura
 Notary Public
 My commission expires:

STATE OF FLORIDA
 COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 9th day of June, 1989 by David T. McWilliams, Trustee.

Joanna H. Segura
 Notary Public
 My commission expires:

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EXHIBIT "A"

A parcel of land lying in Sections 2, 3, 10 and 11 in Township 27 South, Range 37 East, Brevard County, Florida, being more particularly described as follows:

Begin at the Southwest corner of Section 2, Township 27 South, Range 37 East; thence North $89^{\circ}53'41''$ East along the south line of Section 2 a distance of 295 feet more or less to the westerly shoreline of Flamingo Waterway (passing over a concrete monument at a distance of 291.66 feet); thence Southeasterly along said shoreline a distance of 597 feet more or less to a point lying on a bearing of North $80^{\circ}56'05''$ East a distance of 2.11 feet more or less from a concrete monument (said monument is set on a bearing of South $37^{\circ}21'38''$ East at a distance of 713.46 feet from the southwest corner of Section 2, Township 27 South, Range 37 East; thence South $80^{\circ}56'05''$ West a distance of 275 feet more or less to a concrete monument (said monument set on a bearing of South $14^{\circ}59'26''$ East at a distance of 631.45 feet from the southwest corner of Section 2, Township 27 South, Range 37 East); said monument lying on a circular curve concave to the northwest, having a radius of 50.00 feet, a central angle of $58^{\circ}54'12''$, a chord of 49.17 feet and a chord bearing of South $44^{\circ}44'10''$ West; thence Southwesterly along the arc of said curve a distance of 51.40 feet to a concrete monument; thence South $15^{\circ}48'44''$ East a distance of 115 feet more or less to the northerly shoreline of an existing canal (passing over a concrete monument at a distance of 113.01 feet); thence Westerly along the said shoreline a distance of 224 feet more or less to the easterly shoreline of the Banana River; thence Northwesterly along said easterly shoreline of the Banana River a distance of 3665 feet more or less to a concrete monument on the approximate shoreline (said monument set on a bearing of North $18^{\circ}22'30''$ West at a distance of 2820.07 feet from the southwest corner of Section 2, Township 27 South, Range 37 East); thence North $80^{\circ}56'05''$ East a distance of 214.49 feet to a concrete monument; thence South $75^{\circ}39'59''$ East a distance of 60.43 feet to a concrete monument; thence North $80^{\circ}56'05''$ East a distance of 330.58 feet to a concrete monument; thence North $70^{\circ}59'08''$ East a distance of 206.81 feet to a concrete monument; thence North $89^{\circ}54'51''$ East a distance of 478.87 feet to a concrete monument and the west right-of-way line of South Patrick Drive; thence South $00^{\circ}16'04''$ East along the said west right-of-way a distance of 200.00 feet to a concrete monument; thence South $89^{\circ}54'51''$ West a distance of 137.87 feet to a concrete monument; thence North $00^{\circ}05'11''$ West a distance of 36.25 feet to a concrete monument lying on a circular curve concave to the northeast, having a radius of 392.51 feet, a central angle of $09^{\circ}12'57''$, a chord of 63.07 feet and a chord bearing of North $72^{\circ}08'59''$ West; thence along the arc of said curve a distance of 63.13 feet to a concrete monument; thence South $00^{\circ}05'11''$ East a distance of 20.67 feet to a concrete monument; thence South $82^{\circ}26'59''$ West a distance of 94.55 feet to a concrete monument; thence South $10^{\circ}00'16''$ East a distance of 10.00 feet to a concrete monument; thence South $82^{\circ}26'59''$ West a distance of 178.00 feet to a concrete monument; thence South $04^{\circ}54'35''$ East a distance of 41.85 feet to a concrete monument; thence South $80^{\circ}56'05''$ West a distance of 174 feet more or less to the westerly shoreline of said Flamingo Waterway (passing over a concrete monument at a distance of 173.52 feet); thence Southeasterly along said westerly shoreline a distance of 2567 feet more or less to the south line of said Section 2; thence South $89^{\circ}53'41''$ West along said south section line a distance of 295 feet more or less to the Point of Beginning.

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EXHIBIT "B"

That parcel of land of Government Lots 1 and 3 in Sections 3 and 34 of Township 27 South, Range 37 East, in East Brevard County, Florida, lying west of the upland side of the Mosquito Control Canal (aka The Grand Canal) and running contiguously west to the upland side of the Banana River, and that portion of Government Lot 2, Section 3, Township 27 South, Range 37 East lying contiguously north of the Lansing Island Subdivision, Phase One, containing 110 acres more or less.

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