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DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

MARSH HARBOR

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→ Marsh Harbor

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FOR
MARSH HARBOR

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**DECLARATION OF
COVENANTS AND RESTRICTIONS
FOR
MARSH HARBOR**

THIS DECLARATION is made this 14th day of JULY, 2004, by Marsh Harbor Development, LLC, a Florida limited liability company (the "Developer"), and Pulte Home Corporation, a Michigan corporation ("Co-Declarant") which together declare that the real property described on Exhibit A attached hereto and made a part hereof (the "Property"), which is owned by the Developer, shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and all other matters set forth in this Declaration which shall be deemed to be covenants running with the title to the Property and shall be binding upon the Developer and all parties having or acquiring any right, title or interest in the Property or any part thereof.

**ARTICLE I
MUTUALITY OF BENEFIT AND OBLIGATION**

Section 1.1 **Mutuality**. The covenants, restrictions, and agreements set forth in this Declaration are made for the mutual and reciprocal benefit of every parcel within the Property, and are intended to create mutual equitable servitudes upon each such parcel in favor of the other parcels, to create reciprocal rights among the respective Owners, and to create privity of contract and an estate between the grantees of each and every parcel within the Property, their heirs, successors and assigns.

Section 1.2 **Benefits and Burdens**. Every person who is an Owner does by reason of taking title to land located within the Property agree to all the terms and provisions of this Declaration and shall be entitled to its benefits and subject to its burdens.

**ARTICLE II
DEFINITIONS**

The following words, when used in this Declaration shall have the following meanings:

Section 2.1 **Association**. The Marsh Harbor at Palm Valley Homeowners Association, Inc., a Florida corporation not-for-profit. This is the Declaration to which the Articles of Incorporation (the "Articles") and Bylaws (the "Bylaws") of the Association make reference. Copies of the Articles and Bylaws are attached as Exhibits B and C, respectively.

Section 2.2 **Board**. The Board of Directors of the Association.

Section 2.3 **Co-Declarant**, Pulte Home Corporation, a Michigan corporation and, as of the date hereof, the contract vendee of the portion of the Property commonly referred to as Phase I.

Section 2.4 **Common Area**. All real property (including easements, licenses and rights to use real property) and personal property located within or adjacent to the Property, if any, which is owned by the Developer, or by the Association, and which the Developer has designated for the common use of the Owners by reference thereto in this Section, or by recording a Supplementary Declaration, pursuant to the terms of Section 5.3 hereof. The Common Area initially designated by the Developer shall consist of the real property (and interests therein) more particularly described on Exhibit D attached hereto and made a part hereof together with all improvements constructed or to be constructed therein by Developer, but not owned or maintained by a public or private utility company.

Section 2.5 **Developer**. Marsh Harbor Development, LLC and its successors and such of its assigns as to which the rights of the Developer hereunder are specifically assigned. Developer may assign all or only a portion of such rights in connection with portions of the Property. In the event of such a partial assignment, the assignee may exercise such rights of the Developer as are specifically assigned to it. Any such assignment may be made on a non-exclusive basis. Reference in this Declaration to Marsh Harbor Development, LLC as the Developer of the Property is not intended and shall not be construed, to impose upon Marsh Harbor Development, LLC any obligations, legal or otherwise, for the acts or omissions of third parties who purchase lots or parcels within the Property from Marsh Harbor Development, LLC and develop and resell the same.

Section 2.6 **Limited Common Area**. The Limited Common Area of a Lot shall consist of the portion of the Property between the front Lot line and the nearest edge of the paved road surface (as it may exist from time to time) and between the rear Lot line and the nearest shore line of any lake contiguous to or within twenty (20) feet of the Lot, within the area bounded by the extension of the side Lot lines, together with any portion of the Property contiguous to a Lot which, as a result of the natural configuration of the Property, is primarily of benefit to such Lot. Any question concerning the boundary of a limited common area shall be determined by the Board of Directors of the Association.

Section 2.7 **Lot**. Any platted Lot or any other parcel of real property located within the Property, on which one or more residential dwellings have been or could be constructed.

Section 2.8 **Owner**. The record owner or owners of any Lot.

Section 2.9 **Property or Subdivision.** The real property described on the attached Exhibit A and such additions and deletions thereto as may be made in accordance with the provisions of Sections 3.2 and 3.3 of this Declaration.

Section 2.10 **PUD.** Planned Unit Development Ordinance Number R-PUD-96-020, as the same may be amended from time to time.

Section 2.11 **Surface Water or Stormwater Management System.**
 A system which is designed and constructed or implemented within the Property to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, F.A.C. or regulations of similar import. For purposes of this Declaration, the Surface Water or Stormwater Management System shall be deemed to be a part of the Common Area and shall include any drainage swales located within the Property.

ARTICLE III
PROPERTY SUBJECT TO THIS DECLARATION:
ADDITIONS AND DELETIONS

Section 3.1 **No Implied Extension of Covenants.** Each Owner and each tenant of any improvements constructed on any Lot, by becoming an Owner or tenant, shall be deemed to have agreed that (a) the Property described on Exhibit A and such additional property as may be annexed pursuant to Section 3.2 hereof shall be the only Property subject to this Declaration, (b) that nothing contained in this Declaration or in any recorded or unrecorded plat, map, picture, drawing, brochure or other representation of a scheme of development, shall be construed as subjecting, or requiring the Developer to subject any other property now or hereafter owned by the Developer to this Declaration, and (c) that the only manner in which additional land may be subjected to this Declaration is by the procedure set forth in Section 3.2 hereof.

Section 3.2 **Additional Lands.** Developer may, but shall not be obligated to, subject additional land to this Declaration (or to the assessment provisions of this Declaration) from time to time provided only that (a) any additional land subjected to this Declaration (or its assessment provisions) shall be contiguous to the Property then subject to this Declaration (for purposes of this Section 3.2, property separated only by public or private roads, water bodies, golf courses, or open space shall be deemed contiguous), and (b) the Owners of property within additional lands made subject to this Declaration (or its assessment provisions) shall be and become subject to this Declaration (or its assessment provisions), and shall be responsible for their pro rata share of common expenses for which assessments may be levied pursuant to the terms of Article VII of the Declaration. Addition of lands to this Declaration shall be made and evidenced by filing in the public

records of St. Johns County, Florida, a Supplementary Declaration executed by the Developer with respect to the lands to be added. Developer reserves the right to supplement this Declaration to add land to the scheme of this Declaration (or its assessment provisions) pursuant to the foregoing provisions without the consent or joinder of any Owner or mortgagee of land within the Property.

Section 3.3 **Withdrawal of Lands.** With the consent and joinder of Owners holding a majority of the votes in the Association, the Developer may, but shall have no obligation to, withdraw at any time, or from time to time, portions of the Property from the terms and effect of this Declaration. Upon the Developer's request, the consent and joinder of each and every Owner to such withdrawal shall not be unreasonably withheld. The withdrawal of lands as aforesaid shall be made and evidenced by filing in the public records of St. Johns County, Florida, a Supplementary Declaration executed by the Developer with respect to the lands to be withdrawn.

ARTICLE IV **THE ASSOCIATION**

Section 4.1 **Membership.** Each Owner, including the Developer (at all times so long as it owns any part of the Property), shall be a member of the Association, provided that any such person or entity who holds such interest only as security for the performance of an obligation shall not be a member. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot.

Section 4.2 **Classes and Voting.** The Association shall have two classes of membership:

(a) **Class A Members.** The Class A Members shall be all Owners, with the exception of the Developer, who shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members of the Association. However, the vote for any such Lot shall be exercised as the Owner's thereof shall determine, but in no event shall more than one vote be cast with respect to any Lot.

(b) **Class B Members.** The Class B Member shall be the Developer who shall be entitled to three (3) votes for each Lot owned by the Developer. The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:

(i) When the total votes outstanding in the Class A Membership equals the total votes outstanding in the Class B Membership;

(ii) December 31, 2015;

(iii) Three (3) months after ninety percent (90%) of the Lots have been conveyed to members of the Association other than the Developer; or

(iv) Such earlier date as the Developer may choose to terminate the Class B Membership upon notice to the Association.

ARTICLE V
COMMON AREA RIGHTS

Section 5.1 **Conveyance of Common Area**. Developer agrees that all of the Common Area owned by Developer shall be conveyed or assigned to the Association, subject to covenants, easements, restrictions and other matters of record, before the date which is ninety (90) days following the conveyance of the last Lot owned by the Developer to any party. Upon the recordation of any deed or deeds conveying Common Area to the Association, the Association shall be conclusively deemed to have accepted the conveyance evidenced by such deed or deeds.

Section 5.2 **Owners' Easement of Enjoyment**. Each Owner shall have a right and easement of enjoyment in and to the Common Area for its intended purpose, which shall be appurtenant to, and shall pass with, the title to the land of such Owner, subject to the following:

(a) The right of the owner of the Common Area, with the consent of the Developer (if different from such owner) to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility; provided however, the Common Area may not be mortgaged or conveyed free and clear of the provisions of this Declaration without the approval of Members holding two-thirds (2/3) of the total votes that are allocated to the Association's members;

(b) All provisions of this Declaration, any plat of all or any parts of the Property, governmental restrictions, including the provisions of the PUD;

(c) Reasonable rules and regulations governing use and enjoyment of the Common Area adopted by the Developer or the Association;

(d) The rights of the Developer under Section 5.3 to add to or withdraw land from the Common Area;

(e) Easements, restrictions, agreements and other matters of record.

The foregoing easement of enjoyment in favor of the Owners shall not be construed to create or imply any other easements or rights not expressly created by this Declaration, it being the intent hereof to limit the Owners' rights of use of specific portions of the Common Area to only the intended purposes of such portions of

the Common Area. For example, the creation of each Owner's right to drain such Owner's Lot into the portions of the Common Area included within the Surface Water or Stormwater Management System, does not create any right of access by any Owner to such portions of the Common Area over any other Owner's Lot or other privately owned portions of the Subdivision.

Section 5.3 Right of the Developer to Designate Property as Common Area or to Withdraw Property from the Common Area.

Notwithstanding anything to the contrary contained in this Declaration, the Developer shall have the right, in its sole discretion, to designate land, easements, use rights and personal property owned by the Developer as Common Area, provided only that such land shall be located within the Property or contiguous to the Property (for purposes of this Section 5.3, property separated only by public or private roads, water bodies, golf courses, or open space shall be deemed contiguous). For so long as the Developer shall own any Lot, the Developer may, at any time, withdraw, or cause to be withdrawn, land from the Common Area in the Developer's sole discretion. The prior sentence notwithstanding, in the event such withdrawal of Common Area shall materially and adversely affect any Lot, or materially and adversely affect access, visibility, or drainage to or from any Lot, the Developer shall not have the right to withdraw such Common Area without the consent and joinder of the Owner of the Lot which is so affected. Addition of land to and withdrawal of land from the Common Area shall be evidenced by recording a Supplementary Declaration in the public records of St. Johns County, Florida, which shall specifically reference such addition or withdrawal. Withdrawal of land from the Common Area by the Developer shall terminate any and all easements and rights of use of the Owners in such land. No land owned by the Developer shall be deemed to be Common Area unless such land is expressly referenced as such under Section 2.4 hereof, or subsequently designated as such by the Developer pursuant to Section 2.4 hereof and this Section, even if the Developer consents or acquiesces to the use of such land by the Owners. In the event any land, easements, use rights, or personal property owned by the Association shall be withdrawn from the Common Area pursuant to this Section, upon the Developer's written request, the Association shall promptly execute and deliver to the Developer any and all deeds, bills of sale, assignments or other conveyance documents as may be necessary or appropriate to effectuate the withdrawal of such Common Area.

Section 5.4 Maintenance of Common Area and Compliance with Applicable Permits. The Association shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, the Common Area and any improvements (including, without limitation, streets and sidewalks thereon) and landscaping (except utilities owned and maintained by public or private utility companies providing water, sewer, electrical, fire protection, cable television, telephone, or similar utilities to the Property, or any portion thereof) situated on the Common Area, if any. The Association shall maintain all lakes, swales, drainage

areas, drainage easements, and control structures, and shall preserve and protect all designated conservation areas and littoral zones located within, adjacent, or in near proximity to the Property, in accordance with all permit requirements and conditions contained in applicable dredge fill, consumptive use, surface water permits, or any other applicable permits issued by the United States Army Corps of Engineers ("ACOE"), Florida Department of Environmental Protection ("FDEP"), St. Johns River Water Management District ("SJRWMD"), and St. Johns County, Florida and all statutes, rules, regulations and requirements pertaining to surface water management, drainage and water quality promulgated by the SJRWMD, the FDEP, and all other local, state and federal authorities having jurisdiction. The Association shall maintain those portions of the Common Area designated by applicable permit as conservation tracts, stormwater management tracts or similar designations, in accordance with all permit requirements, rules, and regulations promulgated by all local, state and federal authorities having jurisdiction. The Association shall be responsible for the maintenance, operation and repair of the Surface Water or Stormwater Management System. Maintenance of the Surface Water or Stormwater Management System shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance of other surface water, or stormwater management capabilities as permitted by the SJRWMD. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the Surface Water or Stormwater Management System shall be as permitted, or if modified, as approved by the SJRWMD. All maintenance obligations of the Association shall be performed as ordered by the Board of Directors of the Association, and all or any portion of the cost of such maintenance incurred by the Association pursuant to this Section 5.4, shall be a common expense of the Association to be collected and paid in the manner prescribed by this Declaration.

Section 5.5 **Easement for Maintenance Purposes.** The Developer hereby grants to the Association and its successors, assigns, agents, and contractors, a perpetual easement in, on, over and upon those portions of the Property as may be reasonably necessary for the purpose of maintaining the Common Area, including the Surface Water or Storm Water Management System, or other portions of Property to be maintained by Association, in accordance with the requirements of this Declaration. By the easement granted hereby, the Association and its successors, assigns, agents and contractors, shall have the right to enter upon any portion of any Lot which is included within the Surface Water or Storm Water Management System, at all reasonable times and in a reasonable manner, to operate, maintain or repair the Surface Water or Storm Water Management System as required by the SJRWMD. The easement granted hereby shall not be exercised by any party in a manner which unreasonably interferes with the use, occupancy, or enjoyment of any improved portion of the Property. Further, in the event that any portion of the Property shall be damaged or altered in any way as the result of the exercise of the easement rights granted hereby, such portions of the Property shall be immediately restored

to the condition that existed immediately prior to such damage or alteration by the party exercising such rights.

ARTICLE VI
ARCHITECTURAL CONTROL

Section 6.1 **Architectural Review and Approval.** The initial construction of residential dwellings and related structures, landscaping, and other improvements ("Initial Construction"), shall comply with the Marsh Harbor Design and Development Guidelines attached hereto as Exhibit E. Except for such Initial Construction, no landscaping, improvement or structure of any kind, including without limitation, any building, fence, wall, screen enclosure, sewer, drain, disposal system, landscape device or object, driveway or other improvement shall be commenced, erected, placed or maintained upon any Lot, nor shall any addition, change or alteration therein or thereof be made, unless and until the plans, specifications and location of the same have been submitted to, and approved in writing by the Association. All plans and specifications shall be evaluated as to visual and acoustical privacy and as to the harmony of external design and location in relation to surrounding structures, topography, existing trees and other natural vegetation and as to specific conformance with architectural criteria which may be imposed from time to time by the Developer or the Association. It shall be the burden of each Owner to supply two (2) sets of completed plans and specifications to the Architectural Review Board ("ARB") and no plan or specification shall be deemed approved unless a written approval is granted by the ARB to the Owner submitting same. The ARB shall approve or disapprove plans and specifications properly submitted within thirty (30) days of each submission. Any change or modification to an approved plan shall not be deemed approved unless a written approval is granted by the ARB to the Owner submitting same.

Section 6.2 **Architectural Review Board.** The architectural review and control functions of the Association shall be administered and performed by the ARB, which shall consist of three (3) or five (5) members who need not be members of the Association. The Board of Directors of the Association shall have the right to appoint all of the members of the ARB. A majority of the ARB shall constitute a quorum to transact business at any meeting of the ARB, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARB. Any vacancy occurring on the ARB because of death, resignation, or other termination of service of any member thereof shall be filled by the Board of Directors.

Section 6.3 **Powers and Duties of the ARB.** The ARB shall have the following powers and duties:

(a) To recommend amendments to the architectural criteria to the Board at such time as the Board shall have the right to adopt or amend architectural criteria for the Property.

For so long as the Developer shall be entitled to elect or appoint a majority of the members of the Board, only the Developer shall have the right to promulgate, amend, eliminate, or replace architectural criteria applicable to architectural review to be conducted by the Association. At such time as members of the Association shall elect a majority of the members of the Board, such architectural criteria shall be promulgated, amended, eliminated, or replaced by the Board. Any amendment of the architectural criteria shall be consistent with the provisions of this Declaration. Notice of any amendment to the architectural criteria, which shall include a verbatim copy of such amendment, shall be delivered to each member of the Association. The delivery to each member of the Association of notice and a copy of any amendment to the architectural criteria shall not, however, constitute a condition precedent to the effectiveness or validity of such amendment. It shall not be necessary for the architectural criteria, or any amendment thereto, to be recorded.

(b) To require submission to the ARB of two (2) complete sets of all plans and specifications for any improvement or structure of any kind requiring review and approval of the ARB pursuant to this Article VI. The ARB may also require submission of samples of building materials proposed for use on any Lot, and may require tree surveys to show the effect of the proposed improvements on existing tree cover, and such additional information as reasonably may be necessary for the ARB to completely evaluate the proposed structure or improvement in accordance with this Declaration and applicable architectural criteria.

(c) To approve or disapprove in accordance with the provisions of this Article VI, any improvements or structures of any kind (other than Initial Construction), or any change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Lot, and to approve or disapprove any exterior additions, changes, modifications or alterations therein or thereon. All decisions of the ARB may, but need not be evidenced by a certificate in recordable form executed under seal by the President or any Vice President of the Association. Any party aggrieved by a decision of the ARB shall have the right to make a written request to the Board, within thirty (30) days of such decision, for a review thereof. The determination of the Board upon review of any such decision shall be dispositive.

(d) To adopt a schedule of reasonable fees for processing requests for ARB approval of proposed improvements. Such fees, if any, shall be payable to the Association, in cash, at the time that plans and specifications are submitted to the ARB.

Section 6.4 **Compensation of ARB.** The Board may, at its option, pay reasonable compensation to any or all members of the ARB.

Section 6.5 **Review of Initial Construction by Developer.** No Initial Construction shall be commenced upon any Lot unless and until the plans, specifications and location of the same have been submitted to, and approved by, the Developer in writing. All plans and specifications shall be evaluated as to visual and acoustical privacy, as to harmony of external design and location in relation to surrounding structures, if any, topography, existing trees and other natural vegetation, and as to consistency with this Declaration and architectural criteria made applicable to Initial Construction by the Developer from time to time.

Section 6.6 **Variance.** The Developer and the ARB may authorize variances from compliance with any architectural provisions of this Declaration or applicable architectural criteria when circumstances such as topography, natural obstructions, hardships, or aesthetic or environmental considerations require same. Such a variance must be evidenced by a document signed by an authorized representative of the Developer or ARB, as applicable. If such a variance was granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matters for which the variance was granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and particular provisions of this Declaration or applicable architectural criteria covered by the variance, nor shall it effect in any way an Owner's obligation to comply with all governmental laws and regulations, including but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental or municipal authority.

Section 6.7 **Limited Liability.** In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from the Developer, the ARB, or the Association as contemplated by this Article VI, neither the Developer, the ARB, nor the Association shall be liable to an Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way related to the subject matter of any such reviews, acceptances, inspections, permissions, consents or required approvals, whether given, granted or withheld by the Developer, the ARB, or the Association.

ARTICLE VII **COVENANTS FOR MAINTENANCE ASSESSMENTS**

Section 7.1 **Creation of the Lien and Personal Obligation of Assessments.** Each Owner of a Lot within the Property hereby covenants, and by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, including any purchaser at a judicial sale, shall hereafter be deemed to covenant and agree to pay to the Association any annual assessments, and any special assessments established and collected as hereinafter provided. All such assessments, together with

interest thereon from the due date at the highest lawful rate and costs of collection thereof (including reasonable attorneys' fees), shall be a charge and continuing lien upon each Lot against which each such assessment is made, and shall also be the personal obligation of each Owner. No Owner may avoid liability for the assessments by waiver of rights to use, or by non-use of, the Common Areas or by abandonment.

Section 7.2 **Purpose of Assessments.**

7.2.1 The annual assessments levied by the Association shall be used for the purposes of management and accounting fees, taxes, insurance, and utility charges relating to the Common Area, to fund the obligations of the Association set forth in Section 5.4 hereof, and for all other purposes reasonably contemplated by this Declaration, the Articles, the Bylaws, or any cost sharing or similar agreement to which the Association is or may become a party. Further, such annual assessments may be levied to fund reasonable reserves for deferred maintenance of, or non-recurring expenses related to, the Common Area including, the Surface Water or Stormwater Management System. The maintenance responsibilities of the Association payable through assessment of the Owners shall specifically include, but not be limited to, the perpetual maintenance of all retention ponds, drainage swales, and all other drainage and stormwater management improvements lying within the Property, and all other such improvements, constituting a part of the Surface Water or Stormwater Management System permitted by the St. Johns River Water Management District under applicable permit(s) (the "Surface Water Permit") including all operation, sampling, testing, monitoring and maintenance requirements as specified by the Surface Water Permit. Assessments collected by the Association to fund reserves shall be separately accounted for, it being the requirement of this Declaration that such funds shall be used exclusively for deferred maintenance of, or non-recurring expenses related to, the Common Area including the Surface Water or Stormwater Management System.

7.2.2 The Board of Directors may levy special assessments for any purpose relating to permissible or required activities of the Association pursuant to this Declaration, the Articles, or the Bylaws. Any funds collected pursuant to such a special assessment shall be used solely for the purpose or purposes identified by the Board of Directors at the time such special assessment is levied.

Section 7.3 **Calculation and Collection of Assessments.**
Annual assessments shall be established by the Board of Directors based upon an annual budget. Each Owner's pro rata share of the total annual assessment or any special assessment shall be based upon the following calculations:

(a) Owners of Lots shall pay a pro rata share of annual and special assessments which shall be allocated among the Owners as provided in subparagraph (b) of this Section 7.3. Except as

hereafter provided, the annual assessment amount allocated to each Lot is hereby established to be, and shall not exceed, \$1,300 per Lot. From and after December 31, 2003, such amount may be decreased, or increased by an amount not to exceed fifteen percent (15%) of the prior annual assessment amount per Lot, such annual increases to be cumulative and self-operative. Further, by a vote of not less than three-fifths of the members of the Board of Directors, the foregoing assessment amount per Lot may be increased above the fifteen percent (15%) limitation set forth in this Section 7.3

(b) All annual and special assessments shall be established at a uniform rate per Lot.

(c) The assessment obligations of each Owner other than the Developer shall commence upon the recordation of this Declaration in the current public records of St. Johns County, Florida. Annual assessments shall be collectable in advance on a periodic basis established by the Board of Directors from time to time, which periodic basis shall not be less frequent than quarterly. Special assessments shall be collectable in advance in the manner established by the Board of Directors at the time such special assessments are authorized.

Section 7.4 **Required Capital Contributions.** Commencing with the first and continuing with each conveyance of any Lot with a completed residential dwelling thereon, the grantee of such conveyance shall pay the Association the sum of Three Hundred Dollars (\$300.00) as a contribution to the capital of the Association (the "Capital Contribution"). The Association may use the Capital Contribution or any part thereof for any of the purposes authorized for assessments by this Declaration.

Section 7.5 **Effect of Non-Payment of Assessment: Lien, Personal Obligation, and Remedies of Developer.** The lien of the Association shall be effective from and after recording in the public records of St. Johns County, Florida, a claim of lien stating the description of the Lot encumbered thereby, the name of the Owner, the amount and the due date. Such claim of lien shall include assessments which are due and payable when the claim of lien is recorded as well as assessments which may accrue thereafter, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as herein provided. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record, and the affected Owner shall pay the cost of such satisfaction. If the assessment is not paid within fifteen (15) days after the due date, the assessment shall bear interest from the due date at the highest lawful rate, and the Association may at any time thereafter bring an action to enforce the lien authorized hereby by appropriate foreclosure proceedings and/or a suit on the personal obligation against the Owner. In the event the Association shall fail to bring such an action for collection of a delinquent assessment within thirty (30) days following receipt of written notice from any Owner demanding

that such proceedings be commenced, such Owner shall be authorized to institute such proceedings. There shall be added to the amount of such delinquent assessment the costs of collection incurred by the Association, or such Owner, which shall specifically include without limitation reasonable attorneys' fees in preparation for and at trial, in preparation for or on appeal, and in bankruptcy.

Section 7.6 **Subordination of Lien to Mortgages.** The lien of the assessments provided for by this Declaration shall be subordinate to the lien of any bona fide mortgage which is perfected by recording prior to the recording of the claim of lien for any such unpaid assessments. Such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of the affected Lot by deed in lieu of foreclosure, pursuant to a decree of foreclosure, or pursuant to any other proceeding in lieu of foreclosure of such mortgage. No sale or other transfer shall release any Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessments. A written statement of the Association that the lien is subordinate to a mortgage, shall be dispositive of any question of subordination.

Section 7.7 **Developer's Assessments.** Notwithstanding any provision of this Declaration to the contrary, during the Development Period (as defined below) the Lots and other portions of the Property owned by the Developer shall not be subject to any annual or special assessments levied by the Association or to any lien for such assessments. During the Development Period, the Developer shall pay the balance of the actual operating expenses of the Association (excluding costs of major repairs, deferred maintenance, replacements and reserves) remaining after the levying of and payment of assessments due from Owners other than the Developer pursuant to assessments levied by the Board of Directors pursuant to this Declaration. The Developer shall be obligated to fund such balance only as the expenses are actually incurred by the Association during the Development Period. The Development Period shall begin upon the conveyance of the first Lot in the Property to an Owner other than the Developer and shall continue until (i) the Developer shall notify the Association that it will no longer pay for operating deficits of the Association; or (ii) the Class B Membership shall cease and be converted to Class A Membership. Upon termination of the Developer's agreement to pay operating deficits, the Developer shall become obligated to pay assessments on Lots owned by it within the Property on the same basis as other Owners.

In no event shall the Developer be obligated to pay for operating deficits of the Association after the Developer no longer owns any Lots within the Property.

ARTICLE VIII **EXTERIOR MAINTENANCE ASSESSMENT**

Section 8.1 **Exterior Maintenance.** The Association may provide maintenance upon any Lot or Limited Common Area requiring same, when necessary in the opinion of the Association's Board of

Directors to preserve the beauty, quality, or value of any or all portions of the Property. Such maintenance shall include but not be limited to painting, roof repair and replacement, repair of gutters, downspouts, and exterior building surfaces, and yard clean-up and yard maintenance. Each affected Owner shall have fifteen (15) days within which to perform the required maintenance after being notified in writing by the Association that such maintenance is necessary before the Association undertakes the maintenance.

Section 8.2 **Assessments of Costs.** The cost of any maintenance undertaken by the Association under the provisions of Section 8.1 shall be assessed against each Lot upon which such maintenance is performed or, in opinion of the Board, benefiting from same. Exterior maintenance assessments shall not be considered a part of the annual or special assessments imposed upon the Property pursuant to Article VII of this Declaration. Any exterior maintenance assessment shall be a lien upon each Lot assessed and the personal obligation of the Owner of each such Lot and shall become due and payable in all respects, together with interest, attorneys fees, and costs of collection, as provided for in Section 7.3, and shall be subordinate to mortgage liens to the extent provided by Section 7.6.

Section 8.3 **Access.** For the purpose of performing the maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after the notice to the Owner provided under Section 8.1, to enter upon any Lot at reasonable hours on any day except Sunday. In the case of emergency repairs, access will be permitted at any time with only such notice as under the circumstances is practically affordable.

ARTICLE IX **UTILITY PROVISIONS**

Section 9.1 **Water System.** The central water supply system provided for the service of the Property shall be used as sole source of potable water for all water spigots and outlets located within or on all buildings and improvements located on each Lot. Each Owner shall pay water meter charges of the supplier thereof and shall maintain and repair all portions of the water lines serving the Owner's Lot in accordance with the requirements of the applicable utility supplier. No individual potable water supply system or well for consumptive purposes shall be permitted on any Lot without the prior written consent of the Association and all applicable governmental authorities.

Section 9.2 **Sewage System.** The central sewage system provided for the service of the Property shall be used as the sole sewage system for each Lot. Each Owner shall maintain and repair all portions of the sewer lines serving the Owner's Lot in accordance with the requirements of the applicable utility provider, and shall pay when due the periodic charges or rates for

the furnishing of such sewage collection and disposal services made by such utility provider. No sewage shall be discharged onto the open ground or into any wetland, lake, pond, park, ravine, drainage ditch or canal or roadway and no septic tank or drain field shall be placed or allowed within the Property.

Section 9.3 **Garbage Collection.** Garbage, trash and rubbish shall be removed from the Lots only by parties or companies approved by the Association, which approval shall not be unreasonably withheld. Each Owner shall pay when due the periodic charges or rate for such garbage collection service made by the party or company providing the same.

Section 9.4 **Utility Service.** It shall be the responsibility of the Owner or occupant of each Lot to make direct arrangements with the suppliers of electricity, water, sewer, and any other utility services for service to such Lot.

ARTICLE X
USE RESTRICTIONS AND RIGHTS AND
EASEMENTS RESERVED BY DEVELOPER

Section 10.1 **Residential Use.** The Lots subject to this Declaration may be used for residential dwellings and for no other purpose except that one or more Lots may be used for model homes during the development and sale of Lots within the Property or other properties. Subject to Section 11.6, no business or commercial building may be erected on any Lot and no business may be conducted on any part thereof. No Lot shall be divided, subdivided or reduced in size without the prior written consent of the Developer. Assessments for common expenses attributable to any Lot which may be subdivided pursuant to this Section 10.1 shall be reallocated by the Developer, in its sole discretion, at the time written consent for such subdivision is given by the Developer. Owners shall be allowed to lease their dwelling once per calendar year, provided that any lease shall be for a term of seven months or more and such lease shall require the tenant thereunder to comply with the terms and conditions of this Declaration and all rules and regulations promulgated by the Association and the Owner shall be responsible and liable for the actions of any such tenants which violate this Declaration or any rules and regulations promulgated by the Association. No time sharing plan or other plan of interval ownership shall be permitted on the Property.

Section 10.2 **No Mining or Drilling.** There shall be no mining, quarrying, or drilling for minerals, oil, gas, or other mineral or substance within any portion of the Property, other than by the Developer in connection with creating, excavating, or maintaining drainage or other facilities or easements or for irrigation systems or as required by law.

Section 10.3 **No Detached Buildings.** No garages, tool or storage sheds, tents, trailers, tanks, temporary or accessory buildings or structures shall be erected or permitted to remain on

any Lot without the prior written consent of the Developer and the ARB.

Section 10.4 **Easement Areas**. No dwelling shall be erected within any easement area shown on any plat of all or any portion of the Property or within any easement reserved by Section 11.1 of this Declaration.

Section 10.5 **Landscaping**. Landscaping shall be installed on each Lot as stated hereafter.

10.5.1 Except for landscaping installed by the Developer, a landscaping plan for each Lot and Limited Common Area appurtenant thereto must be submitted to and approved by the Developer at the time of Initial Construction of a residence on such Lot. Maximum utilization of existing trees and shrubs, and natural landscaping techniques shall be encouraged. Sodding with St. Augustine, Centipede, or Bermuda grass varieties only will be required as set forth in the architectural criteria established pursuant to Article VI hereof. All Lots and appurtenant Limited Common Areas that are not landscaped or left in a natural wooded state shall be grassed to the paved roadway and/or lake's edge where such Lot abuts a roadway and/or lake.

10.5.2 Subsequent to approval by the Developer of landscaping plans submitted pursuant to Section 10.5.1 above, the Owner shall be obligated to complete the landscaping of his Lot and Limited Common Area in accordance with such plans and Section 10.5.1 above, within thirty (30) days following the issuance of a Certificate of Occupancy or similar final approval for the residence constructed on the Lot by the Building Department of St. Johns County, Florida, or other governmental authority having jurisdiction. In the event the landscaping is not completed as provided herein, the Association shall have the right to enter the Lot and complete said landscaping in accordance with the approved plans, in the same manner as exterior maintenance may be performed by the Association pursuant to Article VIII of this Declaration. The Association shall be entitled to a lien against the Lot in an amount equal to one hundred ten percent (110%) of the cost to complete landscaping on such Lot and Limited Common Area, which sum may be collected as provided in Article VII hereof.

Section 10.6 **Motor Vehicles and Boats**. No boats, recreation vehicles or other motor vehicles, except four wheel passenger vehicles, shall be placed, parked or stored upon any Lot, nor shall any maintenance or repair be performed upon any boat or motor vehicle upon any Lot, except within a building, or otherwise screened, so as to be totally isolated from public view. Commercial vehicles shall not be parked within the Property within public view on a regular basis. Construction trailers may be parked only with the prior written consent of the Developer and in an area designated by the Developer.

Section 10.7 **Nuisances.** Nothing shall be done or maintained on any Lot which may be or become an annoyance or nuisance to any party. Any activity on a Lot which interferes with television, cable or radio reception on another Lot shall be deemed a nuisance and a prohibited activity. If a dispute or question arises as to what may be or become a nuisance, the issue shall be submitted to the Association's Board of Directors, whose decision shall be dispositive of such dispute or question. No immoral, improper or unlawful use shall be made of any portion of the Property and all valid laws, zoning ordinances and regulations of governmental agencies having jurisdiction thereof shall be complied with.

Section 10.8 **Antenna.** The installation of all aerials, antennae or satellite dishes shall be subject to the approval of the ARB in accordance with architectural criteria imposed by the Developer or the Association from time to time and in accordance with all applicable rules and regulations of the Federal Communications Commission or other governmental authorities having jurisdiction.

Section 10.9 **Lakes.** Only the Developer and the Association shall have the right to pump or otherwise remove any water from any lake adjacent to or near to the Subdivision for the purpose of irrigation or other use, or to place any refuse in such lake or lakes. The Developer and the Association shall have the sole and absolute right (but no obligation) to control the water level of such lake or lakes and to control the growth and eradication of plants, fowl, reptiles, animals, fish and fungi in or on any such lake. No gas or diesel driven boat shall be permitted to be operated on any lake. Lots which now or may hereafter be adjacent to or include a portion of a lake (the "lake parcels") shall be maintained so that such grass, planting or other lateral support to prevent erosion of the embankment adjacent to the lake and the height, grade and contour of the embankment shall not be changed without the prior written consent of the Association. Further, all shoreline vegetation, including cattails and the like, shall be maintained and controlled by the Owner of any lake parcel pursuant to the requirements of Section 10.16 hereof. If the Owner of any lake parcel fails to maintain the embankment or shoreline vegetation as part of its landscape maintenance obligations in accordance with the foregoing, the Association shall have the right, but no obligation, to enter upon any such lake parcel to perform such maintenance work which may be reasonably required, all at the expense of the Owner of such lake parcel pursuant to the provisions of Article VIII of this Declaration. Title to any lake parcel shall not include ownership of any riparian rights associated therewith. No docks, bulkheads or other structures shall be constructed on such embankments. The Association shall have the right to adopt reasonable rules and regulations from time to time in connection with use of the surface waters of any lake adjacent to or nearby the Subdivision. The Association shall have the right to deny such use to any person who in the opinion of the Association may create or participate in the disturbance or nuisance on any part of the surface waters of any such lake. The

use of the surface waters of any such lake shall be subject to rights granted to other persons pursuant to the rules and regulations of the Association.

WITH RESPECT TO WATER QUALITY, WATER LEVELS, WILDLIFE AND LAKE BANKS, SLOPES AND LAKE BOTTOMS, ALL PERSONS ARE REFERRED TO SECTION 12.10 HEREOF.

Section 10.10 **Insurance and Casualty Damages.** Each Owner shall be required to obtain and maintain in force and effect a policy of fire and other casualty insurance with coverage adequate to cover the full replacement cost of the dwelling and other improvements located on the Owner's Lot. In the event of damage or destruction by fire or other casualty to the improvements on any Lot, the Owner shall commence reconstruction of the improvements within six (6) months from date of casualty and shall repair or rebuild such damaged or destroyed improvements in a good workmanlike manner, within a reasonable time not to exceed one year and in accordance with the provisions of this Declaration. The improvements shall be reconstructed in accordance with the original plans and specifications including color scheme, placement on Lot and materials. All debris must be removed immediately and the Lot shall be restored to an orderly condition within a reasonable time not to exceed sixty (60) days from the date of such damage or destruction.

Section 10.11 **Trees.** No tree or shrub, the trunk of which exceeds six (6) inches in diameter one (1) foot above the ground, shall be cut down, destroyed or removed from a Lot without the prior express written consent of the Developer, except for trees located within an approved building pad, and the area within five (5) feet of such building pad.

Section 10.12 **Artificial Vegetation.** No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot, unless approved by the ARB.

Section 10.13 **Signs and Flagpoles.** No sign of any kind shall be displayed to the public view on any Lot except as may be approved as to size and design and in accordance with criteria established by the Association; provided however, directional signage to be used during the construction of homes within the Property shall be solely subject to the approval of the Developer.

Any Owner may display one (1) portable, removable United States flag in a respectful way, and on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day, any Owner may display in a respectful way portable, removable, official flags that represent the U.S. Army, Navy, Air Force, Marine Corps or Coast Guard, provided that such flags are not larger than four and one-half feet by six feet in size.

Section 10.14 **Lighting.** No lighting shall be permitted which alters the residential character of the Subdivision.

Section 10.15 **Animals**. All animals shall be kept under control by each Owner at all times and leashed when outside the boundaries of the Owner's Lot. Animals shall be kept for the pleasure of Owners only and not for any commercial or breeding use or purposes. If, in the discretion of the Board, any animal shall become dangerous or an annoyance or nuisance to other Owners, or destructive of wildlife or property, such animal may not thereafter be kept on a Lot. Further, in the event any group of animals shall collectively become dangerous or an annoyance or nuisance to other Owners, or destructive to wildlife or property, the Board shall have the right to require the applicable Owner to reduce the number of animals kept on the Lot, or to take such other remedial action as the Board shall specify.

Section 10.16 **Maintenance of Lots and Limited Common Areas**. After construction of improvements on a Lot has commenced, no weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain upon any Lot or Limited Common Area. No refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere within the Property. All such Lots and any improvements placed thereon, shall at all times be maintained in a neat and attractive condition and landscaping shall be maintained in a neat, attractive and orderly manner, including maintenance of grass, plants, plant beds, trees, turf, proper irrigation and lake edge maintenance, all in a manner with such frequency as is consistent with good property management. In order to implement effective control, the Association, its agents and assigns, shall have the right to enter upon any Lot for the purpose of mowing, pruning, removing, clearing, or cutting underbrush, weeds or other unsightly growth and trash which in the opinion of the Board distracts from the overall beauty and safety of the property in accordance with the provisions of Article VIII hereof. During construction upon any Lot, any and all vehicles involved in the construction or delivery of materials and supplies to the site shall enter and exit the site only over the driveway or driveway subsurface and shall not park on any roadway or any Property other than the Lot on which construction is proceeding. During construction of the dwelling or other improvements, the Owner will be required to maintain his Lot in a clean condition, providing for trash and rubbish receptacles and disposal. Construction debris shall not be permitted to remain upon any Lot.

Section 10.17 **Fences**. Except as approved by the Developer as part of Initial Construction, or as subsequently approved by the ARB, no fence, wall or other barrier shall be constructed upon any Lot or any other portion of the Property.

Section 10.18 **Maintenance of Driveways**. Each Lot Owner shall be responsible for maintenance of the driveway serving his Lot.

Section 10.19 **Window Air Conditioning; Window Treatments**. No window air conditioning units shall be installed on any building within the Subdivision. No reflective foil, sheets, newspapers, or other similar material shall be permitted on any window or glass

door. Drapes, blinds, verticals, and other window coverings visible from outside a dwelling shall have a white, beige, or similar light covering.

Section 10.20 **Recreational Equipment**. No swing sets, play sets, basketball hoops or backboards or other permanent recreational or athletic equipment or device shall be placed on any Lot, provided, however, that wooden playsets or swing sets may be placed in the backyard of a dwelling provided that the plans therefore are submitted to and approved by the ARB. Any temporary or movable recreational equipment shall be stored and concealed in the garage while not in use.

Section 10.21 **Compliance with Laws**. All Owners and other occupants of the Property shall at all times comply with the terms of the PUD, and all environmental, land use, marketing and consumer protection ordinances, statutes, regulations, and permits applicable to the Property or to any improvements constructed thereon.

Section 10.22 **Platting and Additional Restrictions**. The Developer shall be entitled at any time, and from time to time, to plat or replat all or any part of the Property owned by it, and to file any covenants and restrictions, or amendments to this Declaration, with respect to any undeveloped portion or portions of the Property owned by the Developer.

Section 10.23 **Conservation and Jurisdictional Areas and Permits**. THE PROPERTY HAS BEEN OR WILL BE DEVELOPED IN ACCORDANCE WITH REQUIREMENTS OF NATIONWIDE PERMIT NUMBER _____ ISSUED BY THE ACOE AND PERMIT NUMBER _____ ISSUED BY THE SJRWMD (THE "PERMITS"). THE PERMITS ARE OR WILL BE OWNED BY THE ASSOCIATION AND THE ASSOCIATION HAS THE OBLIGATION TO ASSURE THAT ALL TERMS AND CONDITIONS THEREOF ARE ENFORCED. THE ASSOCIATION SHALL HAVE THE RIGHT TO BRING AN ACTION, AT LAW OR IN EQUITY, AGAINST ANY OWNER VIOLATING ANY PROVISION OF THE PERMITS.

FURTHER, ANY OWNER OWNING A LOT WHICH CONTAINS OR IS ADJACENT TO JURISDICTIONAL WETLANDS OR CONSERVATION AREAS AS ESTABLISHED BY THE ACOE OR SJRWMD OR BY ANY APPLICABLE CONSERVATION EASEMENT SHALL BY ACCEPTANCE OF TITLE TO THE LOT, BE DEEMED TO HAVE ASSUMED THE OBLIGATION TO COMPLY WITH THE REQUIREMENTS OF THE PERMITS AS THE SAME RELATE TO SUCH OWNER'S LOT AND SHALL AGREE TO MAINTAIN SUCH JURISDICTIONAL WETLANDS AND CONSERVATION AREAS IN THE CONDITION REQUIRED UNDER THE PERMITS. IN THE EVENT THAT AN OWNER VIOLATES THE TERMS AND CONDITIONS OF THE PERMITS AND FOR ANY REASON THE DEVELOPER OR THE ASSOCIATION IS CITED THEREFORE, THE OWNER AGREES TO INDEMNIFY AND HOLD THE DEVELOPER AND THE ASSOCIATION HARMLESS FROM ALL COSTS ARISING IN CONNECTION THEREWITH, INCLUDING WITHOUT LIMITATION ALL COST AND ATTORNEYS' FEES, AS WELL AS ALL COSTS OF CURING SUCH VIOLATION.

NO PERSON SHALL ALTER THE DRAINAGE FLOW OF THE SURFACE WATER OR STORMWATER MANAGEMENT SYSTEM OR ANY PORTION OF THE

JURISDICTIONAL WETLANDS OR CONSERVATION AREAS, INCLUDING WITHOUT LIMITATION, ANY BUFFER AREAS, SWALES, TREATMENT BERMS OR SWALES, WITHOUT THE PRIOR WRITTEN APPROVAL OF THE SJRWMD OR ACOE, AS APPLICABLE.

The following activities are prohibited in or on any conservation or preserve areas now or hereafter depicted on any plat of the Property or in the area described in any conservation easement recorded on all or any part of a Lot or the Common Areas:

- i. construction or placing of buildings, roads, signs, billboards, or other advertising, utilities, or other structures under or above ground;
- ii. dumping or placing of soil or other substance or material as landfill;
- iii. removal of vegetation;
- iv. excavation or dredging or removal of soil, rock, or other material;
- v. any action that would disturb the natural condition;
- vi. activities detrimental to drainage, flood control, water or erosion control or retention or detention, fish and wildlife habitats, including, without limitation, ditching, diking, and fencing;
- vii. acts detrimental to the preservation of the physical appearance of such areas or any aspect of the Property having historical or archaeological significance.

In addition, no dock, boardwalk, bulkheads or other structures shall be constructed in or on any conservation or preserve areas, areas labeled "natural" or "vegetated area" now or hereafter depicted on any plat of the Property or in the area described in any conservation easement recorded on all or any part of a Lot or the Common Areas except in accordance with the following: Lots 1 through 11 along the Intracoastal Waterway shall be entitled to have one dock, boardwalk, or deck waterward of the wetland line provided that the same shall have a minimum height of 5.0 feet above the existing grade or mean high water (whichever is higher), a terminal platform no larger than 160 square feet, and an access pier or walkway no wider than 4.0 feet with 1-inch spacing between the boards. Notwithstanding the foregoing, nothing herein shall prohibit the construction of any dock, boardwalk, bulkhead or other structures near or adjacent to but not within the legal boundaries of any of Lots 1 through 11 provided that the Owner of such Lot obtains all easements, leases, licenses, permits, and approvals required from any and all applicable governmental authorities with respect to same.

ARTICLE XI
RIGHTS AND EASEMENTS RESERVED BY DEVELOPER

Section 11.1 **Easements for Ingress, Egress, Utilities and Drainage.** The Developer reserves for itself, its successors,

assigns and designees, a right-of-way and perpetual, nonexclusive easement for ingress and egress and to erect, maintain and use utilities, electric, telephone and street lighting poles, wires, cables, conduits, storm sewers, sanitary sewers, water mains, gas, sewer, water lines, drainage ways and structures, cable television and radio equipment or other public conveniences or utilities, on, in and over, (i) any portion of the Common Area; (ii) any area designated as an easement, private street or right-of-way area on any recorded plat of all or any portion of the Property; and (iii) a strip of land within each Lot five feet in width along the front, rear and sides of each Lot, which easements in favor of Developer may not be amended or terminated without Developer's prior written consent.

Section 11.2 **Drainage Flow.** Drainage flow shall not be obstructed or diverted from drainage easements. The Developer or the Association may, but shall not be required to, cut drainways for surface water wherever and whenever such action may appear to be necessary to maintain reasonable aesthetic standards relative to the Property and surrounding properties. These easements include the right to cut any trees, bushes or shrubbery, make any grading of the land, or to take any other reasonable action necessary to install utilities and to maintain reasonable aesthetic standards, but shall not include the right to disturb any permanent improvements erected upon a Lot which are not located within the specific easement area designated on the plat or reserved in this Declaration. Except as provided herein, existing drainage shall not be altered so as to divert the flow of water onto an adjacent Lot or into sanitary sewer lines.

Section 11.3 **Future Easements.** Developer reserves the right to impose further restrictions and to grant or dedicate additional easements and rights of way on any Lots within the Property owned by Developer. In addition, Developer hereby expressly reserves the right to grant easements and rights-of-way over, under and through the Common Area so long as Developer shall own any portion of the Property. The easements granted by Developer shall not materially or adversely affect any improvements or unreasonably interfere with the enjoyment of the Common Area.

Section 11.4 **Cable Television or Radio.** Developer reserves for itself, and its successors and assigns, an exclusive easement for the installation, maintenance and supply of radio and television cables within the rights of way and easement areas depicted upon any plat of any portion of the Property or within any easement reserved by this Declaration.

Section 11.5 **Easements for Maintenance Purposes.** The Developer reserves for itself, the Association, and their respective agents, employees, successors or assigns, easements, in, on, over and upon each Lot and the Common Area as may be reasonably necessary for the purpose of preserving, maintaining or improving roadways, landscaped areas, wetland areas, lakes, ponds, hammocks,

wildlife preserves or other areas, the maintenance of which may be required to be performed by the Developer or the Association.

Section 11.6 Developer Rights Re: Temporary Structures, Etc.

Developer reserves the right for itself, its successors, assigns, nominees and grantees, including Co-Declarant, to erect and maintain such temporary dwellings, model houses and/or other structures upon Lots owned by the Developer or Co-Declarant, as the case may be, which it may deem advisable for development purposes and to do all acts reasonably necessary in connection with or the furtherance of the construction and sale of improvements located or to be located on the Lots within the Subdivision, including, without limitation, the right to access the Common Areas, until one (1) year after such time as Developer, Co-Declarant, and their respective successors and assigns no longer owns an interest in the Property with the intent to sell residences to the public and all construction activities are complete. Nothing contained in this Declaration shall be construed to restrict or to give the Association the right to restrict or interfere with the foregoing rights of Developer.

ARTICLE XII
GENERAL PROVISIONS

Section 12.1 Remedies for Violations.

12.1.1 If any Owner or other person shall violate or attempt to violate any of the covenants or restrictions herein set forth, it shall be lawful for the Association, the Developer, or any Owner (i) to prosecute proceedings at law for the recovery of damages against those so violating or attempting to violate any such covenant; or (ii) to maintain any proceeding against those so violating or attempting to violate any such covenant for the purpose of preventing or enjoining all or any such violations, including mandatory injunctions requiring compliance with the provisions of this Declaration. The ACOE and the SJRWMD shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the Surface Water or Stormwater Management System and/or jurisdictional wetlands or conservation areas subject to the control of the ACOE or SJRWMD, and it shall be the Association's responsibility to assist the ACOE, the SJRWMD or both in any such enforcement proceedings. In the event litigation shall be brought by any party to enforce any provisions of this Declaration, the prevailing party in such proceedings shall be entitled to recover from the non-prevailing party or parties, reasonable attorneys fees for pre-trial preparation, trial, and appellate proceedings. The remedies in this section shall be construed as cumulative of all other remedies now or hereafter provided or made available elsewhere in this Declaration, or by law.

12.1.2 In addition to all other remedies, and to the maximum extent allowed by law, a fine or fines may be imposed upon

an Owner for failure of an Owner, his family, guests, lessees, invitees or employees, to comply with any covenant or restriction herein contained, or rule of the Association, provided the following procedures are adhered to:

(a) For a first violation, the Association shall warn the Owner of the alleged infraction in writing.

(b) For a subsequent violation, the Association shall provide the Owner with a notice of its intent to impose a fine for such violation. Included in the notice shall be the date and time of a meeting of a committee appointed by the Board of Directors (the "Rules Enforcement Committee") at which time the Owner shall present argument as to why a fine should not be imposed.

At least fourteen (14) days prior notice of such meeting shall be given.

(c) At the meeting, the alleged infractions shall be presented to the Rules Enforcement Committee, after which the Committee shall receive evidence and hear argument as to why a fine should not be imposed. A written decision of the Rules Enforcement Committee shall be submitted to the Owner not later than thirty (30) days after the Board of Directors meeting. At the meeting, the Owner shall have the right to be represented by counsel and to cross-examine witnesses.

(d) The Rules Enforcement Committee, by majority vote, may impose a fine not to exceed the maximum amount allowed by law from time to time.

(e) Fines shall be paid not later than fifteen (15) days after notice of the imposition or assessment thereof.

(f) The payment of fines shall be secured by one or more liens encumbering the Lot or Lots owned by the offending Owner. Such fines and liens may be collected and enforced in the same manner as regular and special assessments are collected and enforced pursuant to Article VII hereof.

(g) All monies received from fines shall be allocated as directed by the Board of Directors.

(h) The imposition of fines shall not be construed to be an exclusive remedy, and shall exist in addition to all other rights and remedies to which the Association or any Owner may be otherwise legally entitled; provided, however, any fine paid by an offending Owner shall be deducted from or offset against

any damages which may be otherwise recoverable from such Owner.

(i) The Rules Enforcement Committee shall be comprised of not less than three (3) members who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director or employee. No member of the Rules Enforcement Committee shall participate in the review of any infraction in which such member is alleged to have participated.

Section 12.2 **Severability**. Invalidation of any of the provisions of this Declaration by judgment or court order shall not affect or modify any of the other provisions, which shall remain in full force and effect.

Section 12.3 **Additional Restrictions**. No Owner, without the prior written consent of the Developer, may impose any additional covenants or restrictions on any part of the Property, but the Developer may include in any contract or deed hereafter made and covering all or any part of the Property, any additional covenants or restrictions applicable to the Property so covered which are not inconsistent with and which do not lower standards established by this Declaration.

Section 12.4 **Titles**. The addition of titles to the various sections of this Declaration are for convenience and identification only and the use of such titles shall not be construed to limit, enlarge, change, or otherwise modify any of the provisions hereof, each and all of which shall be construed as if not entitled.

Section 12.5 **Termination or Amendment**. The covenants, restrictions, easements and other matters set forth herein shall run with the title to the Property and be binding upon each Owner, the Developer, the Association, and their respective successors and assigns for a period of fifty (50) years, and shall be automatically renewed for successive ten (10) year periods unless terminated as herein provided. The Owners holding two-thirds (2/3) or more of the total votes of the Association may alter, amend or terminate these covenants. Any amendment to this Declaration which alters any provision relating to the Surface Water or Stormwater Management System, beyond maintenance in its original condition, including the water management portion of the Common Areas, must have the prior written approval of the SJRWMD. Any amendment to this Declaration which amends the responsibilities or obligations of the parties with respect to the ACOE Permit, must have prior written approval of ACOE. This Declaration may not be terminated unless adequate provision for transferring perpetual maintenance responsibility for the Surface Water or Stormwater Management System obligation to the then Owners of the Lots is made, and said transfer obligation is permitted under the then existing requirements of the SJRWMD or its successors and the County or any other governmental body that may have authority over such transfer. In the event that the Association is dissolved, prior to such

dissolution, all responsibility relating to the Surface Water or Stormwater Management System and the Permits must be assigned to and accepted by an entity approved by the ACOE and SJRWMD. Any amendment to this Declaration shall be executed by the Association and Developer, if applicable, and shall be recorded in the current public records of St. Johns County, Florida.

Section 12.6 **Assignment of Permit Responsibilities and Indemnification.** In connection with the platting and development of the Property, the Developer assumed certain obligations in connection with the maintenance of the Surface Water or Stormwater Management System and the ACOE permit. The Developer hereby assigns to the Association, and the Association shall be solely responsible for, all of the Developer's obligations and responsibilities for maintenance of the Surface Water or Stormwater Management System pursuant to all applicable Permits and the plat of the Subdivision and for compliance with the ACOE Permit. Subsequent to the termination of the Class B Membership, the Association shall indemnify, defend and hold the Developer harmless from all suits, actions, damages, liability and expenses in connection with loss of life, bodily or personal injury or property damage, or any other damage arising from or out of an occurrence in, upon, at or resulting from the operation or maintenance of the Surface Water or Stormwater Management System, occasioned wholly or in part by any act or omission of the Association or its agents, contractors, employees, servants or licensees.

Section 12.7 **Conflict or Ambiguity in Documents.** To the extent of any conflict, ambiguity, or inconsistency between this Declaration, the Articles, or the Bylaws, the terms of this Declaration shall control both the Articles and Bylaws.

Section 12.8 **Usage.** Whenever used, the singular shall include the plural and the singular, and the use of any gender shall include all genders.

Section 12.9 **Effective Date.** This Declaration shall become effective upon its recordation in the public records of St. Johns County, Florida.

Section 12.10 **Disclaimers as to Water Bodies.** NEITHER THE DEVELOPER, THE ASSOCIATION, NOR ANY OF THEIR SUCCESSORS, ASSIGNS, OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUB-CONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR LEVEL IN ANY LAKE, POND, CANAL, CREEK, STREAM OR OTHER WATER BODY ADJACENT TO OR WITHIN THE PROPERTY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTY LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID WATER BODIES SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF, SUCH PROPERTY, TO HAVE AGREED

TO HOLD HARMLESS THE LISTED PARTIES FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES.

ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALLIGATORS, POISONOUS SNAKES, AND OTHER WILDLIFE MAY INHABIT OR ENTER INTO WATER BODIES AND NATURAL AREAS WITHIN THE PROPERTY AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

ALL PERSONS ARE HEREBY NOTIFIED THAT LAKE BANKS AND SLOPES WITHIN CERTAIN AREAS OF THE PROPERTY MAY BE STEEP AND THAT DEPTHS NEAR SHORE MAY DROP OFF SHARPLY. BY ACCEPTANCE OF A DEED TO, OR USE OF, ANY LOT OR OTHER PORTION OF THE PROPERTY, ALL OWNERS OR USERS OF SUCH PROPERTY SHALL BE DEEMED TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FROM ANY AND ALL LIABILITY OR DAMAGES ARISING FROM THE DESIGN, CONSTRUCTION, OR TOPOGRAPHY OF ANY LAKE BANKS, SLOPES, OR LAKE BOTTOMS LOCATED THEREIN.

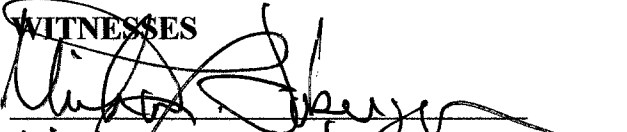
CONSENT AND JOINDER OF MORTGAGEE

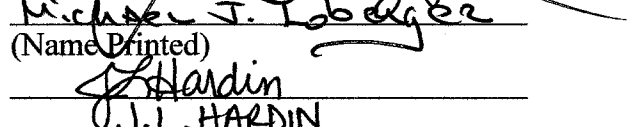
Ironstone Bank, f/k/a Atlantic States Bank (the "Mortgagee"), is the owner and holder of that certain Mortgage and Security Agreement (the "Mortgage") executed by Marsh Harbor Development, LLC, in favor of Mortgagee dated April 10, 2003, and recorded in Official Records Book 1823, page 38, of the public records of St. Johns County, Florida encumbering the real property described in the attached Exhibit A and has caused this instrument to be signed solely in evidence of its consent and joinder in and to the Easement.

Mortgagee hereby consents to the execution, delivery and recording of the Declaration attached ("Declaration") and agrees that Mortgagee's interest under the Mortgage shall be subject and subordinate to the terms and conditions of the Declaration; provided, however, nothing contained herein shall subordinate or release Mortgagee's interest under the Mortgage.

IN WITNESS WHEREOF, the Mortgagee has executed this Consent and Joinder this 30 day of JUNE, 2004.

WITNESSES



 Michael J. Lobeger
 (Name Printed)


 J.L. HARDIN
 (Name Printed)

Ironstone Bank

By:



(Name Printed)

Title:

SENIOR VICE PRESIDENT

STATE OF FLORIDA)
)SS
COUNTY OF DUVAL)

The foregoing instrument was acknowledged before me this 30th day of June, 2004, by SCOTT TACCATT, the ~~SE~~ VICE President of Ironstone Bank, on behalf of the bank who executed the foregoing Consent and Joinder and acknowledged the execution thereof to be his or her own free act and deed as such officer thereunto duly authorized, and that the official seal of said association is duly affixed thereto, and the said consent is the act and deed of said association.

WITNESS my hand and official seal this 30th day of JUNE, 2004.



J. L. Hardin
MY COMMISSION # DD059465 EXPIRES
September 23, 2005
BONDED THRU TROY FAIN INSURANCE, INC

J. L. Hardin

(Print Name _____)
NOTARY PUBLIC, State of Florida
Commission # _____
My Commission Expires: _____
Personally known _____
or Produced I.D. _____
[check one of the above]
Type of Identification Produced _____

Consent and Joinder of Certain Lot Owners

The undersigned hereby join in this Declaration and acknowledge and agree that the Lots owned by them shall be subject to all of the terms and conditions set forth and provided for herein.

By: Marianne Williams
Marianne Williams ~~Graham~~
Fee Simple Owner Lot 37, Marsh Harbor, according to plat thereof recorded in Plat Book 45 at Page 62 of the Public Records of St. Johns County, Florida.

STATE OF ~~SOUTH CAROLINA~~ Florida)
) SS
COUNTY OF St Johns)

The foregoing instrument was acknowledged before me this 1st day of June, 2004, by **MARIANNE WILLIAMS**, who joins and consents to this Declaration as the fee simple owner of Lot 37, Marsh Harbor.



Jennifer D. Irwin
(Print Name Jennifer D. Irwin)

NOTARY PUBLIC, State of Florida at Large
Commission # 00320634
My Commission Expires: 6-19-2008
Personally Known _____
or Produced I.D.
[check one of the above]
Type of Identification Driver's License Produced

The undersigned hereby join in this Declaration and acknowledge and agree that the Lot owned by them shall be subject to all of the terms and conditions set forth and provided for herein.

By:

Ferris G. Solomon
FERRIS G. SOLOMON

Karen W. Solomon
KAREN W. SOLOMON

Fee Simple Owners Lot 36, Marsh Harbor, according to plat thereof recorded in Plat Book 45 at Page 62 of the Public Records of St. Johns County, Florida.

STATE OF FLORIDA)
) SS
COUNTY OF DUVAL)

The foregoing instrument was acknowledged before me this 20th day of APRIL, 2004, by **FERRIS G. SOLOMON AND KAREN W. SOLOMON**, who join and consent to this Declaration as the fee simple owner of Lot 36, Marsh Harbor.



J. L. Hardin
MY COMMISSION # DD059465 EXPIRES
September 23, 2005
BONDED THRU TROY FAIN INSURANCE, INC

J. L. Hardin

(Print Name) _____
NOTARY PUBLIC, State of
Florida at Large
Commission # _____
My Commission Expires:
Personally Known _____
or Produced I.D. _____
[check one of the above]
Type of Identification Produced

EXHIBIT A

Legal Description of the Property

AS SHOWN ON THE PLAT OF MARSH HARBOR AT PALM VALLEY AS RECORDED IN MAP BOOK 45, PAGES 62 THROUGH 71 (INCLUSIVE) TOGETHER WITH THE REPLAT OF LOTS 40 THROUGH 57 AS SHOWN ON THE PLAT OF MARSH HARBOR AT PALM VALLEY, NOW SHOWN AS LOTS 40 THROUGH 56 (INCLUSIVE) ON THE PLAT OF MARSH HARBOR AT PALM VALLEY UNIT ONE-A AS RECORDED IN MAP BOOK 51, PAGES 1 THROUGH 3, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA

COPY

EXHIBIT B

Articles of Incorporation

COPY



FLORIDA DEPARTMENT OF STATE

Glenda E. Hood
Secretary of State

May 11, 2004

SHERRY HICE
STOKES & COMPANY
4315 PABLO OAKS CT STE 1
JACKSONVILLE, FL 32224

COPY

The Articles of Incorporation for MARSH HARBOR AT PALM VALLEY HOMEOWNERS ASSOCIATION, INC. were filed on May 10, 2004 and assigned document number N04000004696. Please refer to this number whenever corresponding with this office regarding the above corporation. The certification you requested is enclosed.

PLEASE NOTE: Compliance with the following procedures is essential to maintaining your corporate status. Failure to do so may result in dissolution of your corporation.

A corporation annual report must be filed with this office between January 1 and May 1 of each year beginning with the calendar year following the year of the filing/effective date noted above and each year thereafter. Failure to file the annual report on time may result in administrative dissolution of your corporation.

A federal employer identification (FEI) number must be shown on the annual report form prior to its filing with this office. Contact the Internal Revenue Service to insure that you receive the FEI number in time to file the annual report. To obtain a FEI number, contact the IRS at 1-800-829-3676 and request form SS-4.

Should your corporate mailing address change, you must notify this office in writing, to insure important mailings such as the annual report notices reach you.

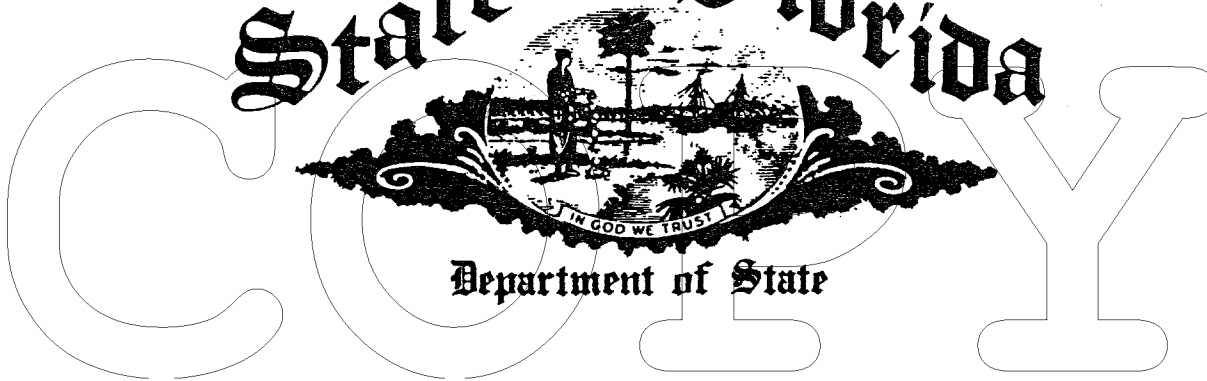
Should you have any questions regarding corporations, please contact this office at the address given below.

Cynthia Blalock, Document Specialist
New Filings Section

Letter Number: 804A00032940

State of Florida

OR2247 PG1369



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of MARSH HARBOR AT PALM VALLEY HOMEOWNERS ASSOCIATION, INC., a Florida corporation, filed on May 10, 2004, as shown by the records of this office.

The document number of this corporation is N04000004696.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Eleventh day of May, 2004.



CR2EO22 (2-03)

Glenda E. Hood
Glenda E. Hood
Secretary of State

FILED

04 MAY 10 PM 4:09

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF INCORPORATION
OF
MARSH HARBOR AT PALM VALLEY HOMEOWNERS ASSOCIATION, INC.
(a corporation not-for-profit)

I. NAME AND DEFINITIONS.

The name of this corporation shall be Marsh Harbor at Palm Valley Homeowners Association, Inc. All defined terms contained in these Articles shall have the same meanings as such terms are defined by the Declaration of Covenants and Restrictions for Marsh Harbor to be recorded in the current public records of St. Johns County, Florida (the "Declaration").

II. PRINCIPAL OFFICE AND MAILING ADDRESS.

The location of the corporation's principal office and its mailing address shall be 4315 Pablo Oaks Court, Suite 1, Jacksonville, Florida 32224, or at such other place as may be established by resolution of the Association's Board of Directors from time to time.

III. PURPOSES.

The general nature, objects and purposes of the Association are:

A. To promote matters of common interest and concern of the Owners of property within Marsh Harbor (the "Property").

B. To own, maintain, repair and replace the Common Area, including without limitation the streets, street lights, landscaping, structures, and other improvements located thereon, for which the obligation to maintain and repair has been delegated to and accepted by the Association.

C. To operate, maintain and manage the Surface Water or Stormwater Management System in a manner consistent with any and all permits issued by the St. Johns River Water Management District (the "District"), and applicable District rules.

D. To cooperate with other associations responsible for administration of adjacent or contiguous properties in matters of common interest to the Association and such other associations and to contribute to such common maintenance interests whether within or without the Property.

E. To provide, purchase, acquire, replace, improve, maintain, operate and repair such buildings, structures, landscaping, paving and equipment, and to provide such other services for the benefit of the members of the Association, as the Board of Directors in its discretion determines necessary, appropriate, and/or convenient.

F. To operate without profit for the sole and exclusive benefit of its Members.

G. To perform all of the functions contemplated for the Association and undertaken by the Board of Directors pursuant to the terms and conditions of the Declaration.

IV. **GENERAL POWERS.**

The general powers that the Association shall have are as follows:

A. To hold funds solely and exclusively for the benefit of the Members for purposes set forth in these Articles of Incorporation.

B. To promulgate and enforce rules, regulations, bylaws, covenants, restrictions and agreements to effectuate the purposes for which the Association is organized.

C. To delegate power or powers where such is deemed in the interest of the Association.

D. To purchase, lease, hold, sell, mortgage or otherwise acquire or dispose of real or personal property, to enter into, make, perform or carry out contracts of every kind with any person, firm, corporation or association; to do any and all acts necessary or expedient for carrying on any and all of the activities and pursuing any and all of the objects and purposes set forth in the Declaration and these Articles of Incorporation and not forbidden by the laws of the State of Florida.

E. To fix assessments to be levied against all or any portion of the Property to defray expenses and costs of effectuating the objects and purposes of the Association and to create reasonable reserves for such expenditures, and to authorize its Board of Directors to enter into agreements with other property owner's associations or maintenance entities for the collection of such assessments. The foregoing shall include the power to levy and collect adequate assessments against the Members for the costs of maintenance and operation of the Surface Water or Stormwater Management System. Such assessments shall be used for the maintenance and repair of the Surface Water or Stormwater Management System, including but not limited to, work within retention areas, drainage structures and drainage easements.

F. To charge recipients for services rendered by the Association and the users of the Association property where such is deemed appropriate by the Board of Directors of the Association and permitted by the Declaration.

G. To pay taxes and other charges, if any, on or against property owned, accepted, or maintained by the Association.

H. To borrow money and, from time to time, to make, accept, endorse, execute and issue debentures, promissory notes or other obligations of the Association for monies borrowed, or in payment for property acquired, or for any of the other purposes of the Association, and to secure the

payment of such obligations by mortgage, pledge, or other instrument of trust, or by lien upon, assignment of or agreement in regard to all or any part of the property rights or privileges of the Association wherever situated.

I. To merge with any other association which may perform similar functions located within the same general vicinity of the Property.

J. In general, to have all powers conferred upon a corporation by the laws of the State of Florida, except as prohibited herein and by the terms and conditions set forth in the Declaration.

V. **MEMBERS.**

The Members ("Members") shall consist of the Developer, and all other Owners of Lots located within the Property. Membership in the Association is appurtenant to, and inseparable from, ownership of a Lot.

VI. **VOTING AND ASSESSMENTS.**

A. The Association shall have two classes of voting membership as follows:

1. **Class A Membership.** The Class A Members shall be all Owners, with the exception of the Developer, and shall be entitled to one (1) vote for each Lot owned.

2. **Class B Membership.** The Class B Member shall be the Developer who shall be entitled to three (3) votes for each Lot owned. The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier (the "Turnover"):

(i) When the total votes outstanding in the Class A Membership equals the total votes in the Class B Membership;

(ii) On December 31, 2015;

(iii) Three (3) months after ninety percent (90%) of the Lots have been conveyed to members of the Association other than the Developer; or

(iv) Such earlier date as the Developer may choose to terminate the Class B Membership upon notice to the Association.

B. When one or more persons or entities holds an interest or interests in any Lot or other portion of the Property, all such persons shall be Members, and the vote(s) for such portions of the Property shall be exercised as they among themselves shall determine. The votes for any Lot, or other portion of the Property cannot be divided for any issue and must be voted as a whole, except

where otherwise required under the provisions of these Articles, the Declaration, or by law. The affirmative vote of a majority of the votes allocated to the Members cast at any meeting of the Members duly called at which a quorum is present, or cast by written ballot by a quorum of the membership, shall be binding upon the Members and the Association.

C. The Association will obtain funds with which to operate by assessment of its Members in accordance with the provisions of the Declaration, as supplemented by the provisions of the Articles and Bylaws of the Association relating thereto.

VII. BOARD OF DIRECTORS.

A. The affairs of the Association shall be managed by a Board of Directors consisting of three (3) Directors prior to the Turnover and five (5) Directors after Turnover. Prior to Turnover, Directors need not be members of the Association and need not be residents of the State of Florida. For so long as the Class B Membership shall exist, the Developer shall have the right to appoint all of the Directors. Following termination of the Class B Membership, Directors shall be elected as herein provided.

B. Elections shall be by plurality vote. At the first annual election of the Board of Directors, the terms of office of the elected Director receiving the highest number of votes shall be established at two (2) years. The other Directors shall be elected for terms of one (1) year each. Thereafter, as many Directors shall be elected and appointed, as the case may be, as there are regular terms of office of Directors expiring at such time; and the term of each Director so elected or appointed at each annual election shall be for two (2) years expiring at the second annual election following their election, and thereafter until their successors are duly elected and qualified, or until removed from office with or without cause by the affirmative vote of a majority of the Members which elected or appointed them. In no event can a Board member appointed by the Developer be removed except by action of the Developer. Any Director appointed by the Developer shall serve at the pleasure of the Developer, and may be removed from office, and a successor Director may be appointed, at any time by the Developer.

C. The names and addresses of the members of the first Board of Directors who shall hold office until the first annual meeting of the Members and until their successors are elected or appointed and have qualified, are as follows:

Michael E. Braren
4315 Pablo Oaks Court, Suite 1
Jacksonville, Florida 32224

Jennifer L. Hardin
4315 Pablo Oaks Court, Suite 1
Jacksonville, Florida 32224

J. Kevin Setzer
7785 Baymeadows Way
Suite 200
Jacksonville, FL 32256



VIII. OFFICERS.

A. The Officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, and such other officers as the Board may from time to time by resolution create. Any two (2) or more offices, may be held by the same person except the offices of President and Secretary. Officers shall be elected for one (1) year terms in accordance with the procedure set forth in the Bylaws. The names of the officers who are to manage the affairs of the Association until the first annual meeting of the Members and until their successors are duly elected and qualified are:

- | | |
|---------------------|--------------------|
| President | Michael E. Braren |
| Vice President | J. Kevin Setzer |
| Treasurer/Secretary | Jennifer L. Hardin |

IX. CORPORATE EXISTENCE.

The Association shall have perpetual existence. These Articles shall become effective upon filing as prescribed by law.

X. BYLAWS.

The Board of Directors shall adopt Bylaws consistent with these Articles. Such Bylaws may be altered, amended, or repealed by resolution of the Board of Directors.

XI. AMENDMENTS TO ARTICLES OF INCORPORATION AND BYLAWS.

These Articles may be altered, amended or repealed upon the affirmative vote of Members holding not less than two-thirds (2/3) of the total votes allocated to the Members pursuant to these Articles.

XII. INCORPORATOR.

The name and address of the Incorporator is as follows:

Michael E. Braren
4315 Pablo Oaks Court, Suite 1
Jacksonville, Florida 32224

XIII. INDEMNIFICATION OF OFFICERS AND DIRECTORS.

A. To the maximum extent allowed by law, the Association hereby indemnifies any Director or officer made a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding:

1. Whether civil, criminal, administrative, or investigative, other than one by or in the right of the Association to procure a judgment in its favor, brought to impose a liability or penalty on such person for an act alleged to have been committed by such person in his capacity as a Director or officer of the Association or as a director, officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees, actually and necessarily incurred as a result of such action, suit or proceeding or any appeal thereof, if such person acted in good faith in the reasonable belief that such action was in the best interests of the Association, and in criminal actions or proceedings, without reasonable grounds for belief that such action was unlawful. The termination of any such action, suit or proceeding by judgment, order, settlement, conviction or a plea of nolo contendere or its equivalent shall not in itself create a presumption that any such Director or officer did not act in good faith in the reasonable belief that such action was in the best interest of the Association or that he had reasonable grounds for belief that such action was unlawful.

2. By or in the right of the Association to procure a judgment in its favor by reason of his being or having been a Director or officer of the Association, or by reason of his being or having been a director, officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against the reasonable expenses including attorneys' fees, actually and necessarily incurred by him in connection with the defense or settlement of such action, or in connection with an appeal therein if such person acted in good faith in the reasonable belief that such action was in the best interest of the Association. Such person shall not be entitled to indemnification in relation to matters to which such person has been adjudged to have been guilty of gross negligence or misconduct in the performance of his duty to the Association unless, and only to the extent that, the court, administrative agency, or investigative body before which such action, suit or proceeding is held shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which such tribunal shall deem proper.

B. The Board of Directors shall determine whether amounts for which a Director or officer seek indemnification were properly incurred and whether such Director or officer acted in good faith in a manner he reasonably believed to be in the best interests of the Association, and whether, with respect to any criminal action or proceeding, he had no reasonable ground for belief that such action was unlawful. Such determination shall be made by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding.

C. The foregoing rights of indemnification shall not be deemed to limit in any way the powers of the Association to indemnify under applicable law.

XIV. TRANSACTION IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED.

A. No contract or transaction between the Association and one or more of its Directors or officers, or between the Association and any other corporation, partnership, association, or other organization in which one or more of its Directors or officers are Directors or officers, or in which they have a financial interest, shall be invalid, void or voidable solely for this reason, or solely because the Director or officer is present at or participates in the meeting of the Board or committee thereof which authorizes the contract or transaction, or solely because his or their votes are counted for such purpose. All such contracts or transactions shall, however, be fair and reasonable and upon terms reasonably comparable to those which could be obtained in arms-length transactions with unrelated entities. No Director or Officer of the Association shall incur liability by reason of the fact that he is or may be interested in any such contract or transaction.

B. Interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorized the contract or transaction.

XV. DISSOLUTION OF THE ASSOCIATION.

A. Upon dissolution of the Association, all of its assets remaining after provisions for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner:

1. Dedication to any applicable municipal or other governmental authority of any property determined by the Board of Directors of the Association to be appropriate for such dedication and which the authority is willing to accept.

2. If no municipal or governmental authority will accept such dedication, the assets shall be distributed among the Members, subject to the limitation set forth below, each Member's share of the assets to be determined by multiplying such remaining assets by a fraction the numerator of which is all amounts assessed by the Association since its organization against the portion of Property which is owned by the Member at that time, and the denominator of which is the total amount (excluding penalties and interest) assessed by the Association against all properties which at the time of dissolution are part of the Property. The year of dissolution shall count as a whole year for purposes of the preceding fractions.

B. The Association may be dissolved upon a resolution to that effect being approved by a majority of the Board of Directors and by two-thirds (2/3) of the Members. In the event of incorporation by annexation or otherwise, of all or part of the Property by a political subdivision of the State of Florida, the Association may be dissolved in the manner set forth above.

C. In no event shall the Association be dissolved, and any attempt to do so shall be ineffective, unless and until maintenance responsibility for the Surface Water or Stormwater Management System and discharge facilities located within the Property is assumed by an entity acceptable to the St. Johns River Water Management District, Florida Department of Environmental Regulation, or other governmental authority having jurisdiction, pursuant to the requirements of Rule 40C-42.027, Florida Administrative Code, or other administrative regulation of similar import. Further, such dissolution shall require the prior approval of the Army Corps of Engineers.

XVI. MERGERS AND CONSOLIDATIONS.

Subject to the provisions of the Declaration applicable to the Property and to the extent permitted by law, the Association may participate in mergers and consolidations with other nonprofit corporations organized for the same purposes, provided that any such merger or consolidation shall be approved in the manner provided by Chapter 617, Florida Statutes as the same may be amended from time to time. For purposes of any vote of the Members required pursuant to said statutes, for so long as the Developer shall own any portion of the Property, any such merger or consolidation shall require the Developer's prior approval.

IN WITNESS WHEREOF, the Incorporator has hereto set his hand and seal this 27th day of APRIL, 2004.

Signed, sealed and delivered in the presence of:

JL Hardin
JL HARDIN
(Print or Type Name)

Malloy & Keyes Holm
Malloy & Keyes Holm
(Print or Type Name)

Michael E. Braren
Michael E. Braren
Incorporator

STATE OF FLORIDA }
 }SS
COUNTY OF Duval }

The foregoing instrument was acknowledged before me this 27th day of APRIL, 2004, by Michael E. Braren, the Incorporator of **MARSH HARBOR AT PALM VALLEY HOMEOWNERS ASSOCIATION, INC.**, on behalf of the corporation.

JL Hardin
(Print Name) _____
NOTARY PUBLIC
State of Florida at Large
Commission # _____
My Commission Expires: _____



J. L. Hardin
MY COMMISSION # DD059465 EXPIRES
September 23, 2005
BONDED THRU TROY FAIN INSURANCE, INC.

Personally Known _____
or Produced I.D. _____
[check one of the above]

Type of Identification Produced _____


IN COMPLIANCE WITH SECTION 617.0501, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED:

MARSH HARBOR AT PALM VALLEY HOMEOWNERS ASSOCIATION, INC., DESIRING TO ORGANIZE UNDER THE LAWS OF THE STATE OF FLORIDA WITH ITS PRINCIPAL PLACE OF BUSINESS AT 4315 PABLO OAKS COURT, SUITE 1, JACKSONVILLE, FLORIDA 32224, HAS NAMED MICHAEL E. BRAREN WHOSE ADDRESS IS 4315 PABLO OAKS COURT,

SUITE 1, JACKSONVILLE, FLORIDA 32224, AS ITS REGISTERED AGENT TO ACCEPT SERVICE OF PROCESS WITHIN THE STATE OF FLORIDA. SAID REGISTERED AGENT'S ADDRESS IS THE CORPORATION'S REGISTERED OFFICE.

COO

MARSH HARBOR AT PALM VALLEY HOMEOWNERS ASSOCIATION, INC.

By: 

Michael E. Braren
Incorporator

Dated: 04-27, 2004

HAVING BEEN NAMED TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE NAMED CORPORATION, AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I HEREBY AGREE TO ACT IN THIS CAPACITY, AND I FURTHER AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATIVE TO THE PROPER AND COMPLETE PERFORMANCE OF MY DUTIES.



Michael E. Braren
Registered Agent

Dated: 04-27, 2004

EXHIBIT C

Bylaws

COPY

BYLAWS
OF
MARSH HARBOR AT PALM VALLEY HOMEOWNERS ASSOCIATION, INC.

I. DEFINITIONS.

All defined terms contained herein which are defined in the Declaration of Covenants and Restrictions for Marsh Harbor ("Declaration") to be recorded in the public records of St. Johns County, Florida, and in the Articles of Incorporation of the Association, shall have the same meanings as such terms are defined in the Declaration and Articles of Incorporation.

II. LOCATION OF PRINCIPAL OFFICE.

The office of the Marsh Harbor at Palm Valley Homeowners Association, Inc. ("Association") shall be at 4315 Pablo Oaks Court, Suite 1, Jacksonville, Florida 32224, or at such other place as may be established by resolution of the Board of Directors of the Association from time to time.

III. VOTING RIGHTS AND ASSESSMENTS.

A. Every person or entity who is a record fee simple owner of a Lot or any other portion of the Property, and the Developer as long as it owns any Property subject to the Declaration, shall be a member of the Association (the "Members") as provided in the Articles of Incorporation of the Association, and shall have the voting rights as set forth in the Articles of Incorporation, provided that any such person or entity who holds such interest only as a security for the performance of an obligation shall not be a Member. Membership shall be appurtenant to, and may not be separated from, ownership of any parcel within the Property.

B. Assessments and installments thereon not paid when due shall bear interest from the date when due until paid at the highest lawful rate and shall result in the suspension of voting privileges during any period of such non-payment.

IV. BOARD OF DIRECTORS.

A. A majority of the Board of Directors of the Association (the "Board") shall constitute a quorum to transact business at any meeting of the Board, and the action of the majority present at a meeting at which a quorum is present shall constitute the action of the Board.

B. Any vacancy occurring on the Board because of death, resignation or other termination of services of any Director, shall be filled by the Board, except that the Developer, to the exclusion of other Members and/or the Board itself, shall fill any vacancy created by the death, resignation, removal or other termination of services of any Director appointed by the Developer. A Director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office and thereafter until his successor shall have been elected or appointed, and qualified.

V. **ELECTION OF DIRECTORS.**

A. Nominations for the election of Board members (other than Board members appointed by the Developer) shall be made by the Nominating Committee described in Article IX hereof, or upon petition in accordance with Section C. of this Article V. The Nominating Committee shall make as many nominations as it shall in its discretion determine.

B. The Developer shall, within fourteen (14) days of the date set for the annual meeting of the Association, notify the Secretary of the names of the Directors that Developer is appointing to the Board.

C. Petitions for nominees shall also be accepted if signed by Members representing one-third (1/3) of the total votes held by the Class A Members, and if received by the Secretary of the Association not less than thirty (30) days prior to the date fixed for the annual meeting of the Members. Nominations and notification of the vacancies being filled by the Developer shall be placed on the written ballot referenced in Section D of this Article V.

D. All elections to the Board shall be made on written ballots to be voted at the annual meeting, or in the discretion of the Board, by mail, provided such ballots are mailed to the Members not less than fifteen (15) days prior to the date fixed for the annual meeting. The ballots shall (i) describe the vacancies to be filled by the Class A Members, (ii) set forth the names of those nominated for each such vacancy, and (iii) set forth the names of those appointed to the Board by the Developer. Each Member may cast the number of votes to which such Member is entitled as set forth in the Articles of Incorporation.

E. In order for an election of members of the Board to be valid and binding, the election must occur at a meeting of the Members at which a quorum is present; or if the election is conducted by mail, the Association must receive as of the date established by the Board for receipt of ballots, a number of ballots representing not less than a quorum of the Members.

F. The members of the Board elected or appointed in accordance with the procedures set forth in this Article V shall be deemed elected or appointed as of the date of the annual meeting of the Members.

VI. **POWERS AND DUTIES OF THE BOARD OF DIRECTORS.**

A. The Board of Directors shall have power:

1. To call meetings of the Members.
 2. To appoint and remove at its pleasure all officers, agents and employees of the Association; and to prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these Bylaws shall be construed to prohibit the employment of any Member, Officer or Director of the Association in any capacity whatsoever.
 3. To establish, levy and assess, and collect the annual and special assessments necessary to operate the Association and carry on its activities, and to create such reserves as may be deemed appropriate by the Board.
 4. To collect assessments on behalf of any other property owners association entitled to establish, levy and collect assessments from the Members of the Association.
 5. To appoint committees, adopt and publish rules and regulations governing the use of the Common Areas or any portion thereof and the personal conduct of the Members and their guests thereon, including reasonable admission charges if deemed appropriate.
 6. To authorize and cause the Association to enter into contracts for the day-to-day operation of the Association and the discharge of its responsibilities and obligations.
 7. To cause the financial records of the Association to be compiled, reviewed, or audited by an independent certified public accountant at such periodic intervals as the Board may determine in its sole discretion.
 8. To exercise for the Association all powers, duties and authority vested in or delegated to the Association, except those reserved to Members in the Declaration or the Articles of Incorporation of the Association.
- B. It shall be the duty of the Board of Directors:
9. To cause to be kept a complete record of all of its acts and corporate affairs.
 10. To supervise all officers, agents and employees of this Association to insure that their duties are properly performed.
 11. With reference to assessments of the Association:
 - (i) To fix the amount of annual assessments against each Class A Member for each annual assessment period at least thirty (30) days in advance of such date or period;
 - (ii) To prepare and maintain a roster of the Members and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member; and

(iii) To send written notice of each assessment to every Member subject thereto.

VII. **DIRECTORS MEETINGS.**

A. Regular meetings of the Board shall be held on such date and at such time as the Board may establish. Notice of such meetings is hereby waived.

B. Special meetings of the Board shall be held when called by the President or Vice President of the Association or by any two (2) Directors, after not less than three (3) days notice to each Director.

C. Meetings of the Board of Directors shall be open to all Members and notices of meetings shall be posted in a conspicuous place within the Property at least forty-eight (48) hours in advance, except in an emergency. Notice of any meeting of the Board of Directors during which assessments are to be established, shall specifically contain a statement that the assessments shall be considered and a statement of the nature of such assessments.

D. The transaction of any business at any meeting of the Board, however called and noticed, or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice, if a quorum is present and, if either before or after the meeting, each of the Directors not present signs a waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents and approvals shall be filed with the corporate records of the Association and made a part of the minutes of the meeting.

VIII. **OFFICERS.**

E. The Officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, and such other officers as may be determined from time to time by the Board, in accordance with the Articles of Incorporation of the Association. The President shall be a member of the Board, but the other Officers need not be.

F. The Officers of the Association shall be elected by the Board at the annual meeting of the Board, which shall be held immediately following the annual meeting of the Association. New offices may be created and filled at any meeting of the Board. Each Officer shall hold office until his successor shall have been duly elected.

G. A vacancy in any office because of death, resignation, or other termination of service, may be filled by the Board for the unexpired portion of the term.

H. All Officers shall hold office for terms of one (1) year.

I. The President shall preside at all meetings of the Board, shall see that orders and resolutions of the Board are carried out and shall sign all notes, checks, leases, mortgages, deeds and all other written instruments.

J. The Vice President, or the Vice President so designated by the Board if there is more than one Vice President, shall perform all the duties of the President in his absence. The Vice President(s) shall perform such other acts and duties as may be assigned by the Board.

K. The Secretary shall be ex officio the secretary of the Board, and shall record the votes and keep the minutes of all meetings of the Members and of the Board of Directors in a book to be kept for that purpose. The Secretary shall keep all records of the Association and shall record in the book kept for that purpose all the names of the Members of the Association together with their addresses as registered by such members.

L. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association, and shall disburse such funds as directed by resolution of the Board, provided however, that a resolution of the Board shall not be necessary for disbursement made in the ordinary course of business conducted within the limits of a budget adopted by the Board. The Treasurer may, but need not, be a required signatory on checks and notes of the Association.

M. The Treasurer, or his appointed agent, shall keep proper books of account and cause to be prepared at the completion of each fiscal year an annual budget and an annual balance sheet statement, and the budget and balance sheet statement shall be open for inspection upon reasonable request by any Member.

N. With the approval of the Board of Directors, any or all of the Officers of the Association may delegate their respective duties and functions to a licensed and qualified property manager, provided, however, such property manager shall at all times be subject to the supervision and control of the Board of Directors.

IX. COMMITTEES.

O. The standing committees of the Association shall be the Nominating Committee and the Architectural Review Board. The Nominating Committee and Architectural Review Board shall have the duties, authority and functions as described in the Declaration and as elsewhere described in these Bylaws.

P. The Board shall have the power and authority to appoint such other committees as it deems advisable. Any committee appointed by the Board shall consist of a Chairman and two (2) or more other members and shall include a member of the Board. Committee members shall serve at the pleasure of the Board, and shall perform such duties and functions as the Board may direct.

X. BOOKS AND RECORDS.

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Association shall retain the minutes of all meetings of the Members and the Board of Directors for not less than seven (7) years.

XI. MEETINGS OF MEMBERS.

Q. The annual meeting of the Members shall be held prior to April 30th of each year, at such time as the Board may designate, or at such other date and time as may be selected by the Board.

R. Special meetings of the Members for any purpose may be called at any time by the President, the Vice President, the Secretary or Treasurer, by any two or more members of the Board or upon the written request of Members holding a majority of all the votes allocated to the entire Membership.

S. Notice of all meetings of the Members shall be given to the Members by the Secretary. Notice may be given to the Member either personally or by sending a copy of the notice through the mail, postage fully prepaid, to his address appearing on the books of the Association or by any other method permitted by law, including by email or other method of electronic transmission (to those Members who consent to receive notice by such means). Each Member shall be responsible for registering his address and telephone number with the Secretary and notice of the meeting shall be mailed to him at such address. Notice of the annual meeting of the Members shall be delivered at least fourteen (14) days in advance. Notice of any other meeting, regular or special, shall be mailed at least seven (7) days in advance of the meeting and shall set forth in general the nature of the business to be transacted; provided, however, that if the business of any meeting shall involve any action as governed by the Articles of Incorporation or the Declaration in which other notice provisions are provided for, notice shall be given or sent as therein provided.

T. The presence, in person or by proxy, of the Members holding not less than thirty percent (30%) of the total votes in the Association as established by the Articles of Incorporation, shall constitute a quorum of the Membership for any action governed by the Declaration, the Articles of Incorporation, or these Bylaws.

XII. PROXIES.

U. At all meetings of the Members, each Member may vote in person or by limited or general proxy.

V. All proxies shall be in writing and shall state the date of the proxy and the date, time and place of the meeting for which the proxy is given, and must be signed by the authorized Member giving the proxy. A proxy shall be effective only for the specific meeting for which it is given, as such meeting may be lawfully adjourned and reconvened from time to time. No proxy shall extend beyond a period of ninety (90) days from the date of the meeting for which it was originally given, and every proxy shall automatically cease upon the sale by the Member of his interest in the Property. All proxies shall be revocable at any time at the pleasure of the Member who executes same, and may include powers of substitution.

W. For elections of the Board of Directors, the Members shall vote in person or by proxy at a meeting of the Members, or by a written ballot that each Member personally casts.

XIII. SEAL.

The Association shall have a seal in circular form having within its circumference the words: Marsh Harbor at Palm Valley Homeowners Association, Inc., not for profit, 2003.

XIV. AMENDMENTS.

These Bylaws may be altered, amended or rescinded by majority vote of the Board of Directors at a duly constituted meeting of the Board. Amendments shall be effective on the date of passage by the Board and no amendment need be recorded in the public records of St. Johns County, Florida.

XV. INCONSISTENCIES.

In the event of any inconsistency between the provisions of these Bylaws and the Declaration or Articles of Incorporation, the provisions of the Declaration and Articles of Incorporation shall control.

Adopted by the Board of Directors of
Marsh Harbor at Palm Valley Homeowners Association, Inc.,
a Florida corporation, not-for-profit
effective Dec. 16, 2004

By:

Jennifer J. Hardin
Jennifer J. Hardin, Secretary

EXHIBIT D

Common Area

COPY

A PARCEL OF LAND, BEING ALL OF LOTS 1,2,3,4,5,6, 7 AND 8, TOGETHER WITH TRACTS "A" AND "B", AND ALL OF PALM VALLEY TERRACE DRIVE, (A 60 FOOT PUBLIC ROAD RIGHT OF WAY), ALL AS SHOWN ON THE PLAT OF PALM VALLEY TERRACE, AS SHOWN ON THE PLAT THEREOF, RECORDED IN PLAT BOOK 14, PAGE 9 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA; TOGETHER WITH A PORTION OF GOVERNMENT LOT 2, SECTION 28, TOWNSHIP 4 SOUTH, RANGE 29 EAST; TOGETHER WITH A PORTION OF THE UNSURVEYED PORTION OF SECTION 28, TOWNSHIP 4 SOUTH, RANGE 29 EAST; TOGETHER WITH A PORTION OF SECTION 27, TOWNSHIP 4 SOUTH, RANGE 29 EAST; TOGETHER WITH A PORTION OF SECTION 51, THE BEN CHAIRES GRANT, TOWNSHIP 4 SOUTH, RANGE 29 EAST; TOGETHER WITH A PORTION OF SECTION 55, THE PEDRO MIRANDA GRANT, TOWNSHIP 4 SOUTH, RANGE 29 EAST, ALL IN ST. JOHNS COUNTY, FLORIDA, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE, BEGIN AT THE AT THE INTERSECTION OF THE WESTERLY RIGHT OF WAY LINE OF THE INTRACOASTAL WATERWAY, (A 500 FOOT RIGHT OF WAY, AS SHOWN IN MAP BOOK 4, PAGE 73, OF THE PUBLIC RECORDS OF SAID ST. JOHNS COUNTY, FLORIDA), WITH THE SOUTHERLY RIGHT OF WAY LINE OF COUNTY ROAD No. C-210, (A 100 FOOT PUBLIC ROAD RIGHT OF WAY, AS PRESENTLY ESTABLISHED AND MONUMENTED, FORMERLY KNOWN AS STATE ROAD No. S-210 AND STATE ROAD No. 306), AND RUN THENCE, SOUTH 51°31'11" WEST, ALONG THE SOUTHERLY RIGHT OF WAY LINE OF COUNTY ROAD No. C-210, A DISTANCE OF 1,008.36 FEET, TO THOSE LANDS DESCRIBED AND RECORDED IN THAT DECLARATION OF TAKING (CIVIL ACTION) RECORDED IN OFFICIAL RECORDS BOOK 1552, PAGE 1127 OF THE PUBLIC RECORDS OF SAID ST. JOHNS COUNTY, FLORIDA; RUN THENCE, ALONG THE BOUNDARY LINE OF LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 1552, PAGE 1127 , THE FOLLOWING FIVE (5) COURSES AND DISTANCES:

COURSE No. 1: SOUTH 43°36'50" WEST, A DISTANCE OF 28.09 FEET, TO THE POINT OF CURVATURE, OF A CURVE LEADING SOUTHERLY;

COURSE No. 2: THENCE SOUTHERLY, ALONG AND AROUND THE ARC OF A CURVE, CONCAVE SOUTHEASTERLY, AND HAVING A RADIUS OF 172.50 FEET, THROUGH A CENTRAL ANGLE OF 56°56'41" TO THE LEFT, AN ARC DISTANCE OF 168.30 FEET, TO THE POINT OF TANGENCY OF LAST SAID CURVE, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 23°46'11" WEST, 161.70 FEET;

COURSE No. 3: SOUTH 04°17'06" EAST, ALONG SAID TANGENCY, A DISTANCE OF 85.01 FEET, TO THE POINT OF CURVATURE, OF THE ARC OF A CURVE, LEADING SOUTHWESTERLY;

COURSE No. 4: THENCE SOUTHWESTERLY, ALONG AND AROUND THE ARC OF A CURVE, CONCAVE NORTHWESTERLY, AND HAVING A RADIUS OF 277.50 FEET, THROUGH A CENTRAL ANGLE OF 139°08'33" TO THE RIGHT, AN ARC DISTANCE OF 673.91 FEET, TO THE POINT OF TANGENCY OF LAST SAID CURVE, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 65°17'10" WEST, 520.09 FEET;

COURSE No. 5: NORTH 45°08'33" WEST, A DISTANCE OF 25.88 FEET, TO A POINT ON THE AFORESAID SOUTHERLY RIGHT OF WAY LINE OF COUNTY ROAD No. C-210; RUN THENCE SOUTH 51°31'11" WEST, ALONG THE AFORESAID SOUTHERLY RIGHT OF WAY LINE OF COUNTY ROAD No. C-210, A DISTANCE OF 174.79 FEET, TO THE NORTHEAST CORNER OF THOSE LANDS IN THAT WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 224, PAGE 191 OF THE PUBLIC RECORDS OF SAID ST. JOHNS COUNTY, FLORIDA; RUN THENCE SOUTH 12°11'49" EAST, ALONG THE EAST LINE OF LAST SAID LANDS, A DISTANCE OF 958.07 FEET, TO THE SOUTHEAST CORNER OF AFORESAID LANDS, DESCRIBED IN OFFICIAL RECORDS BOOK 224, PAGE 191; RUN THENCE, ALONG THE SOUTHERLY LINE OF LAST SAID LANDS, AND THEN ALONG THE SOUTHERLY LINE OF LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 161, PAGE 421 OF THE AFORESAID PUBLIC RECORDS, A DISTANCE OF 349.07 FEET, TO THE SOUTHWEST CORNER OF LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 161, PAGE 421, OF THE PUBLIC RECORDS; RUN THENCE NORTH 12°14'33" WEST, ALONG THE WESTERLY LINE OF LAST SAID LANDS, A DISTANCE OF 785.54 FEET, TO A POINT ON THE AFORESAID SOUTHERLY RIGHT OF WAY LINE OF COUNTY ROAD No. C-210; RUN THENCE SOUTH 51°31'11" WEST, ALONG THE SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 2,001.81 FEET, TO A POINT ON THE MONUMENTED NORTH LINE OF THE RESIDUAL LANDS OF THAT WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 5781, PAGE 1125 OF THE PUBLIC RECORDS OF ST.

JOHNS COUNTY, FLORIDA; RUN THENCE, ALONG THE NORTHERLY BOUNDARY LINE OF THE RESIDUAL LANDS OF SAID WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 5781, PAGE 1125 OF THE PUBLIC RECORDS, THE FOLLOWING THREE (3) COURSES AND DISTANCES:

COURSE No. 1: NORTH 77°46'29" EAST, A DISTANCE OF 3,329.65 FEET, TO A POINT;
 COURSE No. 2: SOUTH 27°05'04" EAST, A DISTANCE OF 887.32 FEET, TO A POINT;
 COURSE No. 3: NORTH 74°16'35" EAST, A DISTANCE OF 1,022.82 FEET, TO A POINT ON THE AFORESAID WESTERLY RIGHT OF WAY LINE OF THE INTRACOASTAL WATERWAY;
 CONTINUE THENCE NORTH 74°16'35" EAST, ALONG AN EASTERLY PROLONGATION OF THE LAST SAID LINE, A DISTANCE OF 149.90 FEET, TO A POINT ON THE "MEAN HIGH WATER LINE" OF THE INTRACOASTAL WATERWAY, (ELEVATION 2.53 N.G.V.D. OF 1929, AS PER STATE OF FLORIDA, DEPARTMENT OF ENVIRONMENTAL PROTECTION); RUN THENCE, ALONG THE "MEAN HIGH WATER LINE" OF THE INTRACOASTAL WATERWAY, THE FOLLOWING TWENTY-SIX (26) COURSES AND DISTANCES:

COURSE No. 1: NORTH 32°01'28" WEST, A DISTANCE OF 262.47 FEET, TO A POINT;
 COURSE No. 2: NORTH 29°12'03" WEST, A DISTANCE OF 113.33 FEET, TO A POINT;
 COURSE No. 3: NORTH 42°15'01" WEST, A DISTANCE OF 186.72 FEET, TO A POINT;
 COURSE No. 4: NORTH 08°52'10" WEST, A DISTANCE OF 196.83 FEET, TO A POINT;
 COURSE No. 5: NORTH 17°32'12" WEST, A DISTANCE OF 213.70 FEET, TO A POINT;
 COURSE No. 6: NORTH 26°09'10" WEST, A DISTANCE OF 159.82 FEET, TO A POINT;
 COURSE No. 7: NORTH 30°51'41" WEST, A DISTANCE OF 108.09 FEET, TO A POINT;
 COURSE No. 8: NORTH 09°23'40" WEST, A DISTANCE OF 76.34 FEET, TO A POINT;
 COURSE No. 9: NORTH 27°46'26" WEST, A DISTANCE OF 121.01 FEET, TO A POINT;
 COURSE No. 10: NORTH 27°03'11" WEST, A DISTANCE OF 65.74 FEET, TO A POINT;
 COURSE No. 11: NORTH 34°17'22" WEST, A DISTANCE OF 126.89 FEET, TO A POINT;
 COURSE No. 12: NORTH 23°27'29" WEST, A DISTANCE OF 110.83 FEET, TO A POINT;
 COURSE No. 13: NORTH 30°12'11" WEST, A DISTANCE OF 90.87 FEET, TO A POINT;
 COURSE No. 14: NORTH 32°08'56" WEST, A DISTANCE OF 103.89 FEET, TO A POINT;
 COURSE No. 15: NORTH 29°36'17" WEST, A DISTANCE OF 89.43 FEET, TO A POINT;
 COURSE No. 16: NORTH 23°13'31" WEST, A DISTANCE OF 64.40 FEET, TO A POINT;
 COURSE No. 17: NORTH 47°11'15" WEST, A DISTANCE OF 47.86 FEET, TO A POINT;
 COURSE No. 18: NORTH 15°14'25" WEST, A DISTANCE OF 95.78 FEET, TO A POINT;
 COURSE No. 19: NORTH 23°24'30" WEST, A DISTANCE OF 72.23 FEET, TO A POINT;
 COURSE No. 20: NORTH 36°03'46" WEST, A DISTANCE OF 74.95 FEET, TO A POINT;
 COURSE No. 21: NORTH 29°31'27" WEST, A DISTANCE OF 87.56 FEET, TO A POINT;
 COURSE No. 22: NORTH 27°26'13" WEST, A DISTANCE OF 72.09 FEET, TO A POINT;
 COURSE No. 23: NORTH 24°44'09" WEST, A DISTANCE OF 78.16 FEET, TO A POINT;
 COURSE No. 24: NORTH 17°26'36" WEST, A DISTANCE OF 106.89 FEET, TO A POINT;
 COURSE No. 25: NORTH 11°32'22" WEST, A DISTANCE OF 120.15 FEET, TO A POINT;
 COURSE No. 26: NORTH 26°04'35" WEST, A DISTANCE OF 57.48 FEET, TO A POINT ON THE AFORESAID SOUTHERLY RIGHT OF WAY LINE OF COUNTY ROAD No. C-210; RUN THENCE SOUTH 51°31'11" WEST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 217.58 FEET, TO THE WESTERLY RIGHT OF WAY LINE OF THE INTRACOASTAL WATERWAY, AND THE POINT OF BEGINNING.

LESS AND EXCEPT: LOT 1 THROUGH 39 (INCLUSIVE) AS SHOWN ON THE PLAT OF MARSH HARBOR AT PALM VALLEY AS RECORDED IN MAP BOOK 45, PAGES 62 THROUGH 71 (INCLUSIVE) TOGETHER WITH THE REPLAT OF LOTS 40 THROUGH 57 AS SHOWN ON THE PLAT OF MARSH HARBOR AT PALM VALLEY, NOW SHOWN AS LOTS 40 THROUGH 56 ON THE PLAT OF MARSH HARBOR AT PALM VALLEY UNIT ONE-A AS RECORDED IN MAP BOOK _____, PAGES _____ THROUGH _____, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA

EXHIBIT E

Marsh Harbor Design and Development Guidelines

COPY

MARSH HARBOR
DESIGN AND DEVELOPMENT GUIDELINES

The development, construction, erection, placement and installation of all Improvements on Residential Property shall be subject to and governed by the following covenants, conditions, restrictions and reservations, to wit:

1. **Type of Structure.** Since the permitted use of Lots is limited to single family residential dwelling and related uses and purposes only, no building or structure other than (1) one single family residential dwelling and its related appurtenances, facilities and improvements, which may include garages, out buildings and accessory structures, shall be constructed, erected, placed, installed, located or permitted to remain on any Lot.

2. **Approved Plans.** All Improvements on a Lot must be constructed, erected, placed, installed and located in accordance with detailed plans prepared by or under the supervision of and sealed by residential designers or architects licensed and registered as such in the State of Florida in conformance with all applicable governmental regulations.

3. **Governmental Regulations.** All Improvements constructed, erected, placed, installed and located on a Lot shall conform to and comply with all applicable Governmental Regulations, including, without limitation, all building, zoning and land use regulations of the County.

4. **Height Limitations.** No Improvement on Residential Property shall exceed thirty-five (35) feet in height, as measured from the approved average finished grade on the front street side of the particular Lot involved or as otherwise limited or required by applicable Governmental Regulations.

5. **Building Setback Lines.** No part of any residential dwelling or out building (other than roof overhangs) shall be constructed, erected, placed or installed any closer to the property boundary lines of a Lot than 20 feet to the front yard (street side) property boundary line, 20 feet to the rear yard property boundary line and 10 feet to the side yard property boundary lines which are in conformity within the approved PUD.

6. **Corner Lots.** In the case of Corner Lots, the side yard building setback line on the street side which is not the front of the residential dwelling constructed thereon shall be five (5) feet less than the front yard building setback line of the immediately adjacent Lot on that street.

7. **Other Setback Lines.** Improvements other than the main residential dwelling on a Lot shall be placed, located, erected, constructed, or installed no closer to the property boundary lines of any Lot, by type of Improvement, as follows:

- a. **Driveways.** No closer than five (5) feet to any side yard property boundary line.
- b. **Walkways (other than street side sidewalks).** No closer than seven and one-half (7.5) feet to any side yard property boundary line.

- c. **Swimming Pools.** No closer than the otherwise established side yard building setback line and no closer to the rear yard property boundary line than ten (10) feet.
- d. **Patios and Decks.** No Patio or deck, including a swimming pool patio or deck, whether constructed of concrete, cool deck, brick, or other pavers, aggregate, wood, or other material, shall be constructed nearer than ten (10) feet to any rear yard property line or nearer than the otherwise established side yard building setback line to any side yard property line.
- e. **Outbuildings and Accessory Structures.** All outbuildings or accessory structures (other than boat houses or docks) including free-standing garages, shall be located within the building setback lines established in Sections 5 and 6 of these Guidelines unless permitted by Governmental Regulations and approved in writing by the Architectural Review Board.

8. **Intercoastal Waterway Improvements.** Notwithstanding any provision of these Guidelines, except for boat houses and docks, all buildings, structures and site improvements shall be set back not less than one hundred (100) feet from the normal high water elevation line of the Intercoastal Waterway.

9. **Dwelling Size.** Each single family residential dwelling constructed on a Lot shall have a minimum heated and cooled living area of two thousand four hundred (2,400) square feet.

10. **Temporary Improvements.** No buildings, structures, improvements or other facilities of a temporary nature, including mobile homes, trailers, tents or shacks shall be permitted on a Lot; provided, however, that temporary improvements or facilities used solely in connection with and only during the period of the construction of approved permanent Improvements on a Lot may be permitted by the Architectural Review Board, in its discretion, during the actual period of the construction of such permanent Improvements so long as the same are removed immediately following the completion of such construction.

11. **Garages/No Carports.** Each single family residential dwelling constructed and maintained on Residential Property shall have a garage as an appurtenance thereto. No carports (or open sided garages) shall be permitted on Residential Property. All garages shall be for neither less than two (2) nor more than four (4) standard sized passenger vehicles.

12. **Roofs.** Except as hereinafter specified, roofs on the main body of all buildings and other structures on Residential Property, including the principal residential dwelling and all out buildings and accessory structures, including boat houses, shall be pitched. No flat roofs or mansard roofs shall be permitted on Residential Property without the approval of the Architectural Review Board. However, the Architectural Review Board may, in its discretion, approve flat roofs or mansard roofs on a limited portion or portions of the main body of a building, including the principal residential dwelling on any Lot if architecturally compatible with the remainder of the roof structure of the particular building on which it is to be constructed and all adjacent and nearby residences and other structures. The pitch of all roofs shall be not less than five inches (5") in twelve inches (12") (5/12 vertical/horizontal) unless otherwise approved by the Architectural Review Board, in its discretion, taking into account the architectural style of the

principal residential dwelling to be constructed on a particular Lot as well as such other relevant factors as the proposed ceiling height(s) for such building. All roofs shall be constructed of architectural asphalt composite shingles, clay tile, cement tile, or slate. However, no pure white, pure black or pure primary color roof shall be permitted or approved by the Architectural Review Board.

13. Antennas, Etc. No antennas, aerials, discs, 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 a Lot whether or not the same located on the roof of any structure or is otherwise attached to or detached from a building or a structure unless it is not visible from the street and remains below the plate line.

14. Windows. The exterior windows of all buildings or other Improvements on a Lot shall have frames and muntins, if any, constructed of wood, clad metal, fiberglass or such other materials as shall be approved by the Architectural Review Board. In no event, however, shall raw or silver aluminum or other unclad metal window frames or muntins be permitted. All windows on the front elevations of any building plainly visible from the street shall have architectural decorative raised banding and/or shutters as further described in Section 15 of these Guidelines. Windows located on the side and rear elevations of any building, which are plainly visible from the street, shall also be required to have architectural banding for stucco buildings or brick ledges and/or other details for brick buildings.

15. Shutters and Window and Door Coverings. No exterior windows or doors of any building or other Improvements shall be covered by any shutters, boards, or similar type window coverings; except such as may be required for protection from severe storms and only then during the actual period of any such severe storm and the period within 24 hours before and 24 hours after an anticipated severe tropical storm or hurricane; nor shall any such windows or doors 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 or over window or door openings.

16. Exterior Air Conditioning and Swimming Pool Equipment. All air conditioning, swimming pool and other mechanical or electrical equipment or the like located outside of a residential dwelling or other building or outbuilding shall be screened from the view of street rights-of-way, lakefronts and adjacent or neighboring properties by opaque walls attached to and made an architectural part of each single family residential dwelling and otherwise in conformity with the applicable provisions of the Architectural Standards and Guidelines, if any, or as otherwise approved by the Architectural Review Board. Absolutely no window or wall mounted air conditioning units of any type shall be permitted.

17. Fences and Walls. Other than those constructed by Developer or the Association within the Wall and Landscape Easements established pursuant to the Declaration of Covenants, Conditions and Restrictions of Marsh Harbor, no fences or walls shall be erected on a Lot unless first approved by the Architectural Review Board. The height of all fences or walls shall be no higher than four (4) feet and no fence or wall shall extend toward the front of the Lot past the rear wall of the dwelling. All fences and walls shall be constructed of decorative wrought iron or clad aluminum.

18. **Swimming Pool Screens.** No swimming pools shall be enclosed by any screen, screening or other enclosure or under a roof of any kind unless the same shall be located entirely within the building setback lines otherwise established for the main residential dwelling on a particular Lot, are constructed of materials which match and/or are otherwise architecturally and/or aesthetically compatible with the main residential dwelling on such Lot and are otherwise architecturally treated as a part of such residential dwelling.

19. **Exterior Building Materials, Finishes and Colors.** All exterior building materials and finishes shall be consistent with other homes found within planned unit developments within a three mile radius of this community. Exterior building colors shall be limited to earth tones for the main body color when paint or stone is used to cover the exterior. Brick colors may vary from earth tones. No buildings shall be colored in a manner that detracts from the other buildings within the community. The Architectural Review Board will not approve very bright, very dark or primary colors. Trim colors shall compliment the main body color and shall not detract from other buildings within the community. The foregoing restriction shall be equally applicable to the initial painting and as any subsequent painting of any Improvements. Uncovered or exposed (whether or not painted) 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.

20. **Exterior Lighting.** Exterior lighting or illumination of buildings, parking areas, sidewalks, driveways, yards, landscaping and trees shall be designed and installed so as to avoid visible glare (direct or reflected) from other adjacent or nearby properties, including the Common Streets and Roads. Special exceptions to such specifications may be approved by and within the discretion of the Architectural Review Board upon a reasonable showing of good cause therefor.

21. **Garbage and Trash and Equipment Storage Areas.** All exterior garbage and trash and exterior storage areas shall be enclosed either by landscaping of a substantial height and volume or a wall composed of materials substantially similar to, but not attached to, the residential dwelling, in order to block the view from the street of all equipment and trash receptacles. All such areas shall be adjacent to the main dwelling on the property.

22. **Street Side Mail and Other Delivery Boxes.** All street side mailboxes or other delivery boxes or receptacles shall be of one particular type or design specified by the Architectural Review Board so long as such designated type or design, in the case of mailboxes, meets applicable rules and regulations of the United States Postal Service.

23. **Underground Utilities.** All utility lines and facilities within the community shall be located and installed underground or concealed under or within a building or other on-site Improvements; provided, however, that the foregoing restriction shall not be deemed to prohibit (a) temporary electric power and telephone service poles and water lines which are incident to the ongoing construction of approved Improvements, provided that the same are removed immediately following the completion of such construction; (b) above-ground electric transformers, meters and similar apparatus properly screened and as approved by the Architectural Review Board; or (c) permanent outdoor safety/security light poles which have been approved by the Architectural Review Board.

24. **Cable Television.** Each single family residential dwelling constructed on Residential Property shall be wired to receive and accept cable television service. The cost of the installation and maintenance of the internal cable television system for each single family residential dwelling on Residential Property and the connection thereof shall be borne by the Owner of each Lot. It is expressly provided, however, that notwithstanding such requirement, neither the Developer nor the Association shall have any responsibility or liability to anyone whomsoever or whatsoever, including, without limitation, any Owner, for any failure, deficiency or malfunction of any internal cable television system or the cable television system serving the community from time to time.

25. **Landscaping and Hardscaping.** The entire surface area of each Lot which is pervious, open and uncovered by buildings, structures, driveways, walkways, parking areas, sidewalks, swimming pools, decks, patios or other impervious surfaces shall be landscaped with lawn grass, ground covers, shrubs, bushes, trees, flowers and other plant materials or vegetation. All landscaping and hardscaping shall be installed promptly after the completion of construction of the principal residential dwelling on a Lot and in any event prior to the issuance of a Certificate of Occupancy by the County.

26. **Grass.** No type or variety of lawn grass other than of the St. Augustine variety shall be planted or installed on Residential Property. The planting of lawn 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.

27. **Trees.** Included in the landscape investment, each lot owner shall plant a minimum of three (3) "street trees" which may include but not be limited to magnolia, live oak, laurel oak, river birch, bradford pear, or drake elm. Feature palm trees, excluding palmettos or sago palms shall count towards the street tree allotment. Each street tree, other than palm trees, shall be a minimum of three-inch caliper diameter at breast height.

28. **Artificial Vegetation.** No plastic, vinyl or other type of artificial vegetation shall be permitted on the exterior of any building on Residential Property.

29. **Irrigation Systems.** All landscaped and grassed open areas on a Lot 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 areas, including open areas, if any, existing between the platted street or road right-of-way contiguous to the particular Lot involved and the curb of the street or road located in such right-of-way.

30. **Landscaping Requirements Around Side and Rear Yards.** All side and rear yards that are plainly visible from the street shall have beds running along the perimeter of the building or other permanent improvements and shall have five gallon shrubs planted not more than two and one half (2.5) feet apart from each other. Landscaped beds shall, wherever practical, extend beyond the front elevation of the home to soften the partial view of the side elevations for residences that do not have plainly visible side yards.

31. **Docks and Boathouses.** No dock or boathouse shall be constructed on a Lot or on or over State-owned lands or waters of the Intercoastal Waterway adjacent or contiguous

to a Lot except for the private use of the Lot owner and only if such dock or boathouse shall be in compliance with the following requirements:

- a. A permit or permits for any such dock or boathouse and any dredging, filling or vegetation removal required in connection with its construction shall have first been issued, if otherwise required, by the County, the STJWMD, the State of Florida Department of Environmental Protection, the United States Army Corps of Engineers and such other governmental authorities, if any, as shall have jurisdiction of or over the construction of docks or boathouses on the Intercoastal Waterway.
- b. Only one (1) dock or boathouse shall be permitted for each Intercoastal Waterway Lot.
- c. All docks and boathouses shall comply with the terms of that certain Conservation Easement (Application Nos. 4-109-0180A, 12-109-0073A) recorded or to be recorded in the public records of St. Johns County, Florida.
- d. All docks and boathouses shall be set back not less than fifteen (15) feet from a side yard Lot line.
- e. No dock or boathouse shall contain bathrooms or built-in cooking facilities (other than barbeques) or otherwise be constructed in such fashion as to contemplate occupancy as a living space, whether temporary or permanent.
- f. **Seawalls or Bulkheads.** No seawall or other bulkhead shall be constructed on a Lot or on or in State-owned lands or waters adjacent or contiguous to a Lot.

32. Precedence Over Less Stringent Governmental Regulations. In those instances where the covenants, conditions and restrictions set forth in these Guidelines set or establish minimum standards in excess of applicable Governmental Regulations, including, without limitation, building, zoning, land use and environmental regulations, the covenants, conditions and restrictions set forth in these Guidelines shall take precedence and prevail over less stringent Governmental Regulations.

33. 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 these Guidelines, Developer specifically reserves exclusively unto itself, for the duration hereinafter specified, the right and privilege (but Developer shall have absolutely no obligation) to: (a) grant waivers with respect to any existing or proposed future deviation from, or violation or infraction of, the building restrictions specified in these Guidelines where, in the discretion of Developer, Developer shall determine or decide that such deviation, violation or infraction is de minimus, minor, or insignificant, (b) grant waivers of, exceptions to, or variances from, the building restrictions specified in these Guidelines where special conditions and circumstances exist which are unique or peculiar to a particular Lot and not generally applicable to other Lots (e.g., because of its size, configuration, unusual location or other unique characteristics) 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, Developer, in its exercise of such right and privilege shall, in its 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 (a) the plan of development for the community, and (b) the objects and purposes of these Guidelines. Developer shall have such right and privilege to grant waivers, exceptions and variances, as aforesaid, until either (a) the expiration of a period of twelve (12) years from the date of the recordation of the Declaration of Covenants, Conditions and Restrictions of Marsh Harbor among the Public Records of the County or (b) the sale by Developer in the ordinary course of business, and not in bulk, of all Lots in the community, whichever shall last occur. Following the occurrence of the last of the foregoing events to occur, the right and privilege of Developer to grant waivers, exceptions and variances, as aforesaid, shall be delegated and assigned by 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 or in respect of any other particular Lot or Improvement.