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**MASTER DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR REEDY BRANCH EAST**

**THIS MASTER DECLARATION OF COVENANTS AND RESTRICTIONS** (this "Declaration") is made this 18<sup>th</sup> day of October 2001, by **PETER D. BAILET AND WILLIAM R. BLACKARD, JR., as trustees of the Richard G. Skinner, Jr., Land Trust dated December 30, 1983**, whose address is c/o Radfields, Inc., 7601 Hollyridge Road, Jacksonville, Florida 32256 ("Declarant") and by **TROY M. DAVIS**, whose address is 10550 Baymeadows Rd., Jacksonville, FL 32231.

**BACKGROUND**

A. Declarant is the owner of certain real property (the "Property") located in Duval County, Florida, shown and delineated as Lots 1, 2, and 3 and as Tract A on that certain plat of Reedy Branch Commons recorded in Plat Book 9888. Page 2108, of the public records of Duval County, Florida (the "Plat").

B. Troy M. Davis is the owner of Lot 1 as said Lot is shown and delineated on the Plat.

C. In order to provide for the preservation and enhancement of the Property and to contribute to the health, safety and welfare of subsequent owners of all or portions of the Property, Declarant and Troy M. Davis wish to subject the Property to the covenants, conditions and restrictions set forth in this Declaration.

**TERMS OF DECLARATION**

Declarant and Troy M. Davis hereby declare that the Property shall be held, sold and conveyed subject to the covenants, conditions and restrictions contained in this Declaration.

**ARTICLE 1**

**DEFINITIONS**

1.1 "Articles" means the Articles of Incorporation of the Association, as they may be amended from time to time.

1.2 "Assessment" means those charges made by the Association from time to time, against Lots for the purposes and subject to the terms as provided herein.

1.3 "Association" means the Reedy Branch East Owners Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

1.4 "Board" means the Board of Directors of the Association.

1.5 "By-Laws" means the By-Laws of the Association, as they may be amended from time to time.

1.6 "Common Area" or "Common Areas" means all portions of the Property (including the Surface Water Management System and the Common Facilities) or rights in the Property (such as licenses and easements related to Landscape Areas) now or hereafter owned by Declarant or the Association, for the common use, benefit or enjoyment of the Owners, whether shown on any recorded plat of the Property or any portion thereof or conveyed to the Association by deed or grant of easement.

1.7 "Common Expenses" means all expenses incurred or to be incurred by the Association or Declarant, in connection with its ownership, operation, management, improvement, alteration, reconstruction, replacement, repair and maintenance of the Common Areas, its provision of groundskeeping, landscaping and routine maintenance and repair of Landscape Areas and its performance of any and all other services, activities and obligations pursuant to this Declaration and the Articles promoting the health, safety, security and welfare of the Property and the Owners, including, but not limited to, the cost of taxes, insurance, labor, equipment, materials, management, maintenance, and supervision thereof

1.8 "Common Facilities" means all improvements on the Property now or hereafter owned by Declarant for the common use, benefit or enjoyment of the Owners or by the Association.

1.9 "Common Surplus" means the excess of all receipts of the Association in excess of the Common Expenses.

1.10 "Declarant" means the Trustees of the Skinner Family Land Trust, and their successors and assigns, and any other party designated as "Declarant" by the Trustees, by an instrument in writing which is recorded in the public records of Duval County, Florida.

1.11 "Improvements" means any man-made changes in the natural condition of land, including, but not limited to, structures and construction of any kind, whether above or below the land surface, such as any building, fence, wall, sign, addition, alteration, screened enclosure, sewer, drain, disposal, lake, waterway, road, paving, utilities, grading, landscaping, exterior illumination, any changes in exterior color or appearance, and including both original and subsequent construction on any Lot.

1.12 "Institutional Mortgagee" means a bank, REIT, REMIC, commercial lender, holding company, trust company, savings and loan association, insurance company, pension fund or trust, mortgage company, agency of the United States government or Declarant, which holds a mortgage on the Property or any portion thereof.

1.13 "Landscape Areas" means all portions of the Lots, which are either (x) improved by landscaping and/or sidewalks and encompassed by the license rights of the Association or

Declarant pursuant to Section 4.7.2 of this Declaration, or (y) westerly of the westerly line of the entrance road.

1.14 "Lot" means any parcel of land designated as a Lot or Tract on the Plat, as amended from time to time by Declarant in its sole discretion, to change the number, configuration or size of such parcels then owned by Declarant. Any such amendments to the Plat shall become effective upon recordation thereof by Declarant in the Land Records of Duval County.

1.15 "Member" means a member of the Association, as described in Article 3 hereof.

1.16 "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot.

1.17 "Plat" means that certain plat of Reedy Branch Commons recorded in Plat Book 9888, Page 2108, in the public records of Duval County, Florida.

1.18 "Property" means the real property described as Lots 1, 2, and 3 and Tract A on the Plat.

1.19 "Relinquishment Date" means the earlier of: (a) the date on which Declarant disposes of all right, title and interests to all Lots; or (b) such date as Declarant designates by delivery of notice to the Association.

1.20 "Surface Water Management System" means a system which is designed and constructed or implemented 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.

1.21 "Reedy Branch East" means the project located or to be located on the Property.

## **ARTICLE 2**

### **PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO**

2.1 Legal Description. The Property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Duval County, Florida, and is shown and delineated as Lots 1, 2, and 3 and as Tract A on the Plat.

2.2 Platting and Subdivision Restrictions. Declarant shall be entitled, at any time and from time to time, to plat and/or re-plat all or any part of the Property owned by Declarant, and to file subdivision restrictions and/or amendments thereto with respect to any undeveloped portion or portions of the Property owned by Declarant.

**ARTICLE 3****REEDY BRANCH EAST OWNERS ASSOCIATION, INC.**

3.1 Formation. At or about the time of the recording of this Declaration, Declarant has caused the Association to be formed, by the filing of the Articles in the office of the Secretary of State of Florida. The Association is formed to operate, improve, manage, maintain and ultimately own the Common Areas; to enforce the covenants, conditions, restrictions, and other provisions set forth in this Declaration and to have such other specific rights, obligations, duties and functions as are set forth in this Declaration and in the Articles and the Bylaws. Subject to the additional limitations provided in this Declaration, the Articles and the By-Laws, the Association shall have all of the powers and be subject to all the limitations of a not-for-profit corporation as contained in Florida Statutes, Chapter 617 (the "Florida Not for Profit Corporation Act"), in existence as of the date of recording the Declaration in the public records of Duval County. Without limiting the foregoing, 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(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved by the St. Johns River Water Management District.

3.2 Membership. A person or entity shall automatically become a Member upon acquisition of fee simple title to any Lot, by filing a deed therefor in the public records of Duval County. Membership shall continue until such time as the Member transfers or conveys his interest of record or the interest is transferred or conveyed by operation of law, at which time membership, with respect to the Lot conveyed, shall automatically be conferred upon the transferee. Membership shall be appurtenant to, and may not be separated from, ownership of a Lot subject to this Declaration. Declarant shall be a Member from and after the date of recording the Declaration in the public records of Duval County and so long as it owns any Lot. No person or entity holding an interest of any type or nature whatsoever in a Lot only as security for the performance of an obligation shall be a Member. Declarant, by including additional Lots within the imposition of this Declaration, may cause additional membership in the Association and may designate the ownership basis for such additional membership.

3.3 Voting. The Association shall have one (1) class of voting membership. Each Member, including Declarant, shall be entitled to one (1) vote for each Lot owned by such Member as to matters on which the membership shall be entitled to vote, which vote may be exercised or cast by the Member in such manner as may be provided in the By-Laws. Any Member who owns more than one (1) Lot shall be entitled to exercise or cast one (1) vote for each such Lot. When more than one (1) person owns a Lot, all such persons shall be Members; provided, however, that the vote of such Owners shall be exercised as provided below, and that in no event shall more than one (1) vote be cast with respect to each Lot. Members who own a fractional Lot or Lots shall be entitled to a fractional vote directly proportional to the percentage of the original platted Lot owned by such Member. The votes for each Lot are weighted as follows: Lot 1, 18%; Lot 2, 15%, and Lot 3, 67%. If more than (1) person, a corporation, or other entity owns a Lot, they shall file a certificate which has been executed by all such owners with the Secretary of the Association, naming the person authorized to cast votes for said Lot. The

certificate will remain valid and in effect until any Owner of that Lot files with the Secretary a revocation of the certificate. If a certificate is not on file or is no longer in effect, the Owner(s) shall not be qualified to vote and the vote of such Owner(s) shall not be considered nor shall the presence of such Owner(s) at a meeting be considered in determining whether the quorum requirement has been met. If a Lot shall be owned by husband and wife as tenants by the entirety, no certificate need be filed with the Secretary naming the person authorized to cast votes for said Lot, and either spouse, but not both, may vote in person or by proxy and be considered in determining whether the quorum requirement has been met at any meeting of the Members, unless prior to such meeting, either spouse has notified the Secretary in writing that there is a disagreement as to who shall represent the Lot at the meeting, in which case the certificate requirements set forth above shall apply.

3.4 Administration of the Association. The affairs of the Association shall be administered by the Board in accordance with this Declaration, the Articles and the By-Laws. The Articles and By-Laws may be amended in the manner set forth therein; provided, however, that no such amendment shall conflict with the terms of this Declaration or adversely affect the right of Declarant, without Declarant's prior written approval; and provided further that no amendment, alteration or rescission may be made which affects the rights or privileges of any Institutional Mortgagee, without the express prior written consent of the Institutional Mortgagee so affected. Any attempt to amend contrary to these prohibitions shall be of no force or effect.

3.5 Suspension of Membership Rights. No Member shall have any vested right, interest or privilege in or to the assets, functions, affairs or franchises of the Association, or any right, interest or privilege which may be transferable, or which shall continue after the Member's membership ceases, or while the Member is not in good standing. A Member shall be considered "not in good standing" during any period of time in which the Member is delinquent in the payment of any Assessment or in violation of any provision of this Declaration, the Articles, or any rules or regulations promulgated by the Association. While not in good standing, the Member shall not be entitled to vote or exercise any other right or privilege of a Member.

3.6 Control By Declarant. Anything contained herein to the contrary notwithstanding, at all times prior to the Relinquishment Date: (a) Declarant shall have the right to appoint all members of the Board and to approve the appointment of all officers of the Association, and no action of the Members or the Board of the Association shall be effective unless, and until, approved by Declarant; (b) Declarant may enter into any contracts or other agreements in the name of and on behalf of the Association, which agreements and contracts will constitute the binding obligations of the Association alone; and (c) Declarant shall be entitled to exercise any and all other rights otherwise accruing to the Association as Declarant deems appropriate in its sole discretion.

#### **ARTICLE 4**

#### **COMMON AREAS**

4.1 Title to Common Area. Title to the Common Areas shall remain vested in the Declarant until the Relinquishment Date and thereafter in the Association. Notwithstanding the manner in which fee simple title is held, the Association shall be responsible for the operation, management, maintenance, and repair of the Common Areas, and for the payment of all

expenses, costs, and liabilities incurred in connection with the performance of such functions, property taxes and other assessments that are liens against the Common Areas. Simultaneously with its relinquishment of control of the Association on the Relinquishment Date, Declarant shall convey all of its right, title and interest in the Common Areas to the Association.

4.2 Acquisition and Conveyance of Property. The Association shall have the power and authority to acquire and convey such interest in real, personal and other property as it may deem beneficial to its Members, which property shall be referred to herein as "Common Areas." Such interests may include fee simple or other absolute ownership interests, leaseholds, or such other possessory use interests as the Association may determine to be beneficial to its Members.

4.3 Maintenance of Property.

4.3.1 The Association shall be, either through the appointment of a real estate management entity, or through its own personnel, responsible for the improvement, operation, management, maintenance and repair of the Common Areas, including, but not be limited to, the following:

4.3.1.1 The Common Facilities, including, but not limited to the Surface Water Management System.

4.3.1.2 All landscaping located on the Common Areas and, to the extent provided by Section 4.7.2, the Landscape Areas, including, without limitation, all planters, sodding, irrigation and the planting and care of trees and shrubbery. All natural buffer areas in accordance with the requirements of applicable permits and conditions, including those natural buffer areas located westerly of the entrance road and easterly of adjacent wetland areas.

4.3.1.3 All signs and other Improvements located on the Common Areas (other than signs or improvements owned by the Owners on Landscape Areas).

4.3.1.4 The road, curbing and pavement located within the boundaries of that portion of the Property described on Exhibit A attached hereto and incorporated herein by reference.

4.3.2 Declarant, its parents, subsidiaries, affiliates, their successors and/or assigns, may be the management agent for the Association and may hire such employees, including, but not limited to: attorneys, accountants, bookkeepers, gardeners, and laborers, as the Declarant may deem necessary in order to maintain the Common Areas. No management agreement between the Association and Declarant or its parents, subsidiaries, affiliates or their successors or assigns shall be held invalid solely for the reason that at the time of entering into the management agreement, the employees, officers or agents of Declarant, or its parents, subsidiaries, or affiliates, or their successors or assigns are officers, directors and/or employees of the Association.

4.4 Rules and Regulations Governing Use of Common Area. The Board may regulate the use of the Common Area by Owners and may promulgate such rules and regulations consistent with this Declaration, governing the use thereof as it may deem appropriate or to be in the best interests of its Owners, in its sole discretion. A copy of all rules and regulations established hereunder and any amendments thereto shall be made available to all Owners at the

office of the Association. Such rules and regulations and all provisions, restrictions and covenants contained in this Declaration, may be enforced by legal or equitable action of the Association.

4.5 Owners' Easement of Enjoyment. Subject to the provisions of this Declaration, including Sections 4.6 and 4.7 of this Declaration, each Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Areas (other than the Landscape Area), which right and easement shall be appurtenant to, and shall pass with, the title of each Lot.

4.6 Extent of Owners' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

4.6.1 The right of the Association to borrow money for the purpose of improving, managing, maintaining or repairing the Common Area and, in connection therewith, to mortgage the Common Area.

4.6.2 The right of the Association to take such steps as it deems reasonably necessary to protect the Common Areas against foreclosure.

4.6.3 The right of the Association to suspend the enjoyment rights and easements of any Owner for any period during which an Assessment remains unpaid by that Owner.

4.6.4 The right of the Association to suspend the enjoyment rights and easements of any Owner for any period during which such Owner is in violation of this Declaration, or of any of the rules and regulations promulgated by the Association.

4.6.5 The right of the Association to improve, manage, maintain and repair the Common Areas.

4.6.6 The rules and regulations governing the use and enjoyment of the Common Areas, as promulgated by the Association.

4.6.7 The right of the Association to dedicate or transfer all, or any part, of the Common Areas to any governmental or quasi-governmental agency, authority, utility, water management or water control district.

4.6.8 Restrictions contained on any plat, or filed separately, with respect to all or any portion of the Property.

4.6.9 All of the provisions of this Declaration, the Articles and the By-Laws.

4.6.10 All easements hereby reserved over, through and underneath the Common Areas for present and future utility services to the Property, including, but not limited to, easements for water pipes, sanitary sewer pipes, emergency sewer lines, storm drainage pipes, sprinkler pipes, telephone cables security wires and street lights. Easements for such utility services are reserved by the Association for all Buildings and other Improvements that have been or may be constructed on the Property and the Association may grant specific easements to utility companies and others as the Association shall deem necessary.

4.6.11 All the rights reserved by Declarant or the Association, for future development of the Property and sale of Lots. As a material condition for ownership of a Lot, each Owner, by accepting a deed to a Lot, releases Declarant and the Association from any claim for interference with Owner's quiet enjoyment of its Lot or the Common Areas, due to the development of the Property (including further construction of additional Improvements and Common Facilities on the Common Area), whether or not the construction operations are performed on the Common Areas or the Lots, and each Owner acknowledges and agrees that Declarant and the Association shall have the sole right of design, construction, development and improvement of the Common Areas, except to the extent otherwise provided for Landscape Areas.

4.7 Reserved Rights and Easements. The following rights and easements are hereby granted or reserved over, across and through the Property:

4.7.1 The Common Area is hereby declared to be subject to the perpetual nonexclusive right, title and interest of Declarant and the Association in and to the Common Areas, and their employees and agents (including any management entity contracted by the Association) in order that such employees, agents or management entity may carry out their duties and may have reasonable access to the Common Areas.

4.7.2 Declarant hereby reserves to itself and the Association (and their respective employees, agents and contractors), a perpetual, nonexclusive right and license over, upon, under and through those portions of the Property, respectively, that comprise (x) Landscape Areas, for the purpose of routine groundskeeping, lawn mowing, trimming of plants, and landscape maintenance, as the Association shall deem appropriate, in its sole discretion, and (y) any part of the Property that is or may become Common Areas for purposes of permitting and allowing Declarant and its designees (including the respective employees, agents and contractors) to undertake construction of Improvements and Common Areas. The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the St. Johns River Water Management District permit; it is provided, however, that in the event the Association's maintenance and repair activities pursuant to such easement result in any damage to any improvements, pavement or landscaping located on any Lot(s), the Association shall promptly repair such damage and restore the damaged improvements, pavement or landscaping to the condition that existed immediately prior to such damage. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District. In no event shall Declarant or the Association be responsible for the maintenance, repair, replacement, alteration, or operation of any Buildings or other Improvements on the Lots, except to the extent expressly provided by this Section 4.7.2.

4.8 Additional Easements. In addition to the foregoing easements, the Property shall also be subject to those easements, licenses and rights that were granted or reserved over the



Property prior to the date the Declaration was recorded in the public records of Duval County. Declarant and the Association shall also have the right to grant such additional easements or to relocate existing easements throughout the Property as the Declarant or the Association may deem necessary or desirable for the proper operation and maintenance of the Property or any portion thereof, provided that such additional easements or relocation of existing easements do not prevent or unreasonably interfere with the Owner's use or enjoyment of the Property.

4.9 Restriction on Owner Easements. Except as specifically provided in paragraph 4.8, no Owner shall grant any easement upon any portion of the Property to any person or entity, without the prior written consent of the Association. Declarant and Troy M. Davis, for themselves and for their successors and assigns, hereby covenant and agree to forbear in the use of any and all easement rights, if any, they may have pursuant to the Plat in and to the property described on Exhibit B attached hereto and incorporated herein by reference (collectively the "Easement Rights"), and hereby covenant and agree to restrict and limit their use of the Easement Rights to the property described on Exhibit C attached hereto and incorporated herein by reference.

## **ARTICLE 5**

### **COVENANTS REGARDING COMMON EXPENSES AND SPECIAL ASSESSMENTS**

5.1 Creation of Lien and Personal Obligation for Common Expenses. Declarant hereby covenants, and each Owner (by acceptance of a deed of a Lot, whether or not it shall be 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 Assessments for the purpose of defraying or providing for the payment of Common Expenses. Such Assessments shall be fixed, allocated and collected from time to time as hereinafter provided. All such Assessments, together with interest thereon, as provided in Section 5.7 below, from the due date at the rate of eighteen percent (18%) per annum and costs of collection thereof (including reasonable attorneys' fees), shall be a charge of the Lot(s) and shall be a continuing lien upon the Lot(s) against which each such Assessment is made, and shall also be the personal obligation of the Owner. No Owner may waive or otherwise escape liability for Assessments by non-use or abandonment of the Common Areas.

5.2 Purpose of Common Expenses and Assessments. The Common Expenses are incurred, and Assessments are levied, to promote the health, safety, security and welfare of the Property and the Owners, and in particular for the operation, replacement, improvement, and maintenance of the Common Areas and of any easement in favor of or for the benefit of the Association (including the Surface Water Management System), including, but not limited to, the cost of taxes, insurance, labor, equipment, materials, management, maintenance, and supervision thereof, as well as for such other purposes as are permissible activities or, and undertaken by, the Association. Assessments shall also be used for the maintenance and repair of the surface water or stormwater management systems including but not limited to work within retention areas, drainage structures and drainage easements. The funds collected by the Association may be expended for the mutual benefit of the Members at the discretion of the Board.

5.3 Association Reports and Budget. The Board shall cause to be prepared an annual balance sheet and an operating statement reflecting income and expenditures of the Association

for each fiscal year and shall cause to be distributed a copy of each such statement to each Member of the Association. Prior to the beginning of each fiscal year, the Board shall prepare and distribute to the Members a written, itemized estimate of the Common Expenses and proposed Assessments necessary to be allocated during such year to perform its function under this Declaration.

5.4 Uniform Rate of Assessments. All Assessments shall be allocated to each Owner by multiplying the annual estimated Common Expenses by the weighted vote set forth in Section 3.3.

5.5 Date of Commencement of Assessments. The Assessments shall commence on the date or dates (which shall be the first day of a month) fixed by the Board of Directors to be the date of commencement. The due date of any such Assessments shall be payable in advance monthly, quarterly, semi-annual or annual installments, as determined by the Board.

5.6 Duties of the Board. The Board shall fix the date of commencement, and the amount of the Common Expenses and the Assessments to be collected for and against each Lot for each assessment period at least thirty (30) days in advance of such date or period, and shall at that time prepare a roster of the Lots and allocation for Common Expenses and Assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the allocation of Common Expenses and Assessments shall be sent to every Owner subject thereto not later than seven (7) days after fixing the date of commencement of such assessment period.

The Association shall, upon demand at any time, furnish to any Owner liable for such Assessments a certificate in writing signed by an officer of the Association, setting forth whether such charges have been paid. Such certificate shall be conclusive evidence of payment of any Assessments therein stated to have been paid.

5.7 Effect of Non-Payment of Assessments. In the event an Owner fails to pay Assessments as required hereunder, the Association shall have a lien upon such Owner's Lot for which such charges remain overdue. The lien of the Association upon a Lot shall be effective from and after recording, in the Public Records of Duval County, Florida, a claim of lien stating the description of the Lot encumbered thereby, the name of the Owner, the amount and the date when due. Such claim of lien shall include only Assessments that are due and payable when the claim of lien is recorded, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of sums secured by such claim of lien, the same shall be satisfied of record.

If the Assessments are not paid within thirty (30) days after the delinquency date set by the Board, such charges shall bear interest from the original due date at the rate of eighteen percent (18%) per annum, and the Association may at any time thereafter bring an action to foreclose the lien against the Lot(s) in like manner as a foreclosure of a mortgage on real property, and/or a suit on the personal obligation against the Owner(s). Any judgment resulting therefrom shall include interest on such charges as above provided and a reasonable attorneys' fee to be fixed by the Court, together with the costs of the action.

5.8 Subordination to Lien of Mortgages. Any lien for Assessments shall be subordinate to the lien of any first mortgage to an Institutional Mortgagee. Such subordination shall apply only to the Assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure, and in any other proceeding in lieu of foreclosure of such mortgage. No sale or other transfer shall relieve any Lot from liability for any Assessments thereafter becoming due nor from the lien of any such subsequent charges. The written opinion of either the Declarant or the Association that the lien is subordinate to a mortgage shall be dispositive of any question of subordination.

5.9 Exempt Property. The Common Areas shall be exempt from all assessments and liens provided by this Declaration.

## ARTICLE 6

### RESTRICTIONS

6.1 Permitted Use. Each Lot shall be used only for those commercial, retail, office and other purposes as are permitted by the City of Jacksonville PUD Zoning Ordinance 98-221-E, as it has been and may be further amended from time to time by Declarant (the "Final Development Plan").

6.2 Prohibited Operations and Uses. No use or operation will be made, conducted, or permitted on or with respect to all or any part of any Lot or Improvement which is obnoxious to or out of harmony with the development or operation of the business conducted on the Property, or which is not permitted by Section 6.1 above. Included among the uses or operations which are prohibited because of their obvious detrimental effect upon the general appearance of Lots, other commercial property in the vicinity of the Property, and their conflict with the reasonable standards of appearance and maintenance required by the Declarant and the Association, are uses or operations which produce or are accompanied by the following characteristics, which list is not intended to be all inclusive:

6.2.1 Any public or private nuisance.

6.2.2 Any vibration, noise, sound, or disturbance that is objectionable due to intermittence, beat, frequency, shrillness, or loudness

6.2.3 Any lighting which is not shielded and confined within Lot boundaries.

6.2.4 Any electro-mechanical or electro-magnetic disturbance or radiation.

6.2.5 Any air or water pollution that violates applicable state or local requirements.

6.2.6 Any emission of odorous gas or other non-toxic gas or materials, perceptible beyond a Lot boundary.

6.2.7 Any emission of toxic or hazardous gas or other matter.

6.2.8 Any litter, dust, direct or fly ash in excessive quantities, perceptible beyond the Lot boundary.

6.2.9 Any unusual firing, explosion, or other damaging or dangerous hazard, including the storage, display or sale of explosives or fireworks.

6.2.10 Any mobile home or trailer court, service station, junkyard, or disposition of any kind.

6.2.11 Any drilling for, excavation, refining and/or removal of earth materials, oil, gas, hydrocarbon substance, water, geothermal steam and any other subsurface substances of any nature whatsoever, except as part of normal grading operations in connection with construction of approved improvements as provided elsewhere herein.

6.2.12 Any dumping, disposal, incineration, or reduction of garbage or refuse of any nature whatsoever, other than handling any such waste matter if actually produced on the premises from authorized uses and if handled in a reasonably clean and sanitary manner.

6.2.13 Any auction, public sale, or other auction house operation.

6.2.14 Any commercial excavation of building or construction materials.

6.2.15 Agricultural and related uses.

6.2.16 Any process producing any material violating Section 6.4.

6.3 Other Operations and Uses. Operations and uses that are neither specifically prohibited nor specifically authorized by these restrictions may be permitted in a specific case if operational plans and specifications are submitted to and approved in writing by the Board. Approval or disapproval of such operational plans and specifications shall be based upon the effect of such operations or uses on other property subject to these restrictions or upon the occupants thereof as determined by the Board in its sole discretion. If the Board fails either to approve or to disapprove, such operational plans and specifications have been disapproved.

Neither the Board, nor the Association, shall be liable in damages to anyone submitting operational plans and specifications to the Board for approval, or to any Owner of land affected by this Declaration, by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve such operational plans and specifications. Every person who submits operational plans and specifications to the Board for approval agrees, by submission of such plans and specifications, and every Owner agrees, by acquiring title thereto or interest therein, that he will not bring any action or suit against the Board or Association to recover any such damages.

6.4 Environmental Regulations; Toxic or Hazardous Waste. The Owners shall comply with all federal, state, and local laws and regulations, including but not limited to regulations issued by the Environmental Protection Agency and the Department of Environmental Regulation, respecting air and water quality, and the monitoring, storage and disposal of toxic or hazardous waste. Declarant hereby reserves an easement for itself and the Association to enter any Lot and

any structure thereon at all reasonable times to monitor air and water quality, including but not limited to drilling test wells and placing sensors and monitors in and about the Property, and to otherwise assure compliance with the above-referenced laws and regulations. Declarant and the Association shall not, however, be deemed to have an obligation to perform any such actions with respect to any portion of the Property.

Each Owner, by purchasing a Lot or interest in a Lot, indemnifies and agrees to hold harmless the Association and the Declarant from any liability or responsibility with respect to (a) the discharge into the ground, groundwater, sewer system, the air, or anywhere else, of any toxic or hazardous waste; (b) the placement in any dumpster or other garbage storage or disposal facility of any toxic or hazardous waste; and (c) the disposal of toxic waste in any container or otherwise, into the ground in the Property.

Failure by any Owner to comply with such laws and regulations and the provisions of this Section 6.4, failure to cure any condition that is the subject of a Notice of Violation issued by any governmental department, agency, or board shall be deemed a violation of this Declaration.

6.5 Lot Coverage. The maximum percentage of a Lot covered by Improvements shall be such percentage as permitted by the applicable zoning regulations and the Final Development Plan.

6.6 Required Yards. Minimum front, side, or rear yard set-back requirements shall be as required by applicable zoning regulations as they are from time to time amended, and the Final Development Plan.

6.7 Rezoning. All or any portion of the Property may be rezoned, and in the event any portion is rezoned, it may be submitted to any use and developed in any manner in compliance with the zoning regulations applicable to the zoning district to which such property is so rezoned, subject however, to the Final Development Plan and the restrictions contained in this Declaration.

6.8 Nuisances. No noxious or offensive trade or activity shall be carried on upon any Lot or any part of the Property, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance, or which shall in any way interfere with the quiet enjoyment of each of the Owners of his or its respective Lot, or which shall in any way increase the rate of insurance for any other Lot or any portion of the Common Area. In this regard, all noises, sounds, and vibrations shall be appropriately muffled in such a manner so as not to be objectionable as to intermittence, beat, frequency, shrillness or volume and no noxious odors shall be permitted within the Property. The Board shall have the right to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance. Every use shall be operated in such a manner that the ground vibration, heat, and glare inherently and recurrently generated from such use is not perceptible beyond the foundation or perimeter line of the building in which the use is located. Electrical reflectors, spotlights, flood lights, and other methods of illumination may be used to illuminate buildings, landscaping areas, signs, and parking areas, provided that such devices are equipped with proper lenses concentrating the illumination upon such structures and areas preventing any bright or direct illumination upon adjacent Lots or upon any street, whether public or private, and provided further that any such illumination shall first be approved by the Board.

6.9 Parking. Each owner shall provide parking on its Lot for its use; there are no cross-parking easements. Each Owner shall keep its parking areas neat, clean and in good repair.

6.10 Temporary Structures and Obstructions. No structure of a temporary character, trailer, camper, or similar equipment (with the exception of construction trailers during construction of Improvements on a Lot) shall be permitted to remain on any Lot, without the prior written approval of the Board. There shall be no obstruction of any walkway or driveway that would interfere with the circulation of the foot or automobile traffic except such obstruction as may be reasonably required in connection with repairs of such driveways and walkways.

6.11 Drainage. There shall be no interference with the established drainage pattern over any portion of the Property unless adequate provision is made for proper drainage and is approved by the Declarant. For the purposes hereof, "established drainage" is defined as the drainage which exists at the time the overall grading of the Property is completed or that which is shown on any plans approved by the Board. Each Owner shall be responsible for the costs of making adequate provision for drainage in the event it changes the established drainage over its Lot. There are hereby reserved for the benefit of the Association and all of the Owners, reciprocal nonexclusive easements for drainage over the areas indicated on any plat regulatory permit as "drainage easement," and for maintenance and repair of any drainage facilities on the Property.

6.12 Appearance During Construction. During the course of construction of Improvements and landscaping upon any Lot, construction debris of all kinds will be regularly removed from the Lot and adjoining streets by the Owner of that Lot. All debris, equipment and excess, surplus or remainder of construction materials, of whatever nature, shall be promptly cleared and removed from the Lot and adjoining streets by the Owner when construction is completed. Construction shall be deemed completed when a certificate of occupancy is issued.

6.13 Inside and Outside Installations; Construction Liens. No wiring, or installation of air conditioning, lighting fixtures, water softeners, or other machines shall be installed on the exterior of Buildings or be allowed to protrude through the walls or roof of any Buildings, unless the Board's prior written approval is secured. The type and color of all exposed window coverings shall be subject to the Board's prior written approval. No walls, fences, or barriers other than those erected by Declarant as part of the initial development of the Property shall be erected so as to separate the individual Lots or block access across any portion of the Property. Notwithstanding the specificity of the foregoing, no material exterior additions, changes, or alterations of any Building or structure shall be commenced without the prior written approval of the Board; it is provided, however, that any exterior color changes, changes to exterior signage, and changes to exterior elevations other than door and window placements are material exterior additions, changes, or alterations requiring the prior written approval of the Board. Nothing shall be done on any Lot or in, on or to the Common Area which will or may tend to impair the structural integrity of any Building or which would structurally alter any Building except as otherwise expressly provided herein. There shall be no alteration, repair, or replacement of wall coverings within the Buildings that may diminish the effectiveness of the sound control engineering within the Building.

6.14 Loading, Service, and Outside Storage. Each Owner shall provide sufficient on-site loading facilities to accommodate site activities. All loading movement, including

turnarounds, shall be made off of the public right-of-way. Screening of service areas, loading docks, and so forth may consist of combinations of earth moundings, landscaping, walls, and/or fencing. No materials, supplies, or equipment shall be permitted to remain outside of any Building. Rubbish and garbage facilities shall be screened so as not to be visible from any street or right-of-way.

6.15 Excavation and Underground Utilities. No excavation shall be made except in connection with construction of an Improvement on the Property, and upon completion thereof, exposed openings shall be back-filled and disturbed ground shall be graded, leveled, and restored to its original condition. All telephone, electrical, and other utility lines shall be installed underground (except any lines existing on the date of this Declaration), except that transformer or terminal equipment related thereto, or telecommunications devices may be installed above ground, if screened from view. No Owner shall enter into any contract or agreement with any city, county, or other governmental agency or body of public utility with reference to sewer lines or connections, water lines or connections, or street improvements (including but not limited to curbs, gutters, parkways, street lighting or other utility connections, lines or easements) relating to the Property or any portion thereof without the Declarant's prior written consent. No Owner shall undertake or permit to be undertaken activities on the Lot which interfere with the telephone tower and its customary uses and operation; the tower is located southerly of the Property.

6.16 Maintenance. Buildings, landscaping, and other improvements shall be constructed, kept, and maintained in first-class condition, repair, and appearance similar to that maintained by owners of properties of similar class and construction in North Florida so as to preserve a well-kept appearance especially along the perimeters of any Lot. The Board shall have the responsibility to enforce the following maintenance standards:

6.16.1 Trash. All trash shall be placed in designated containers, or within the Owner's contained service area and all trash areas shall be screened and properly landscaped. Yards and landscaped areas will be kept free of trash, leaves and dead landscaping materials.

6.16.2 Landscaping. All landscaping areas including sodded areas, shall be regularly maintained. Regular maintenance shall include trimming, fertilization, mowing and replacement of diseased plant material as required. All landscaped areas shall be irrigated as required. All irrigation systems shall be underground, automatic, kept in good repair, and shall not discolor any wall, sign surface, or other structure.

6.16.3 Parking Lots and Sidewalks. All parking lots, parking areas, sidewalks, and other hard surface areas shall be swept and cleaned regularly, and cracks and damaged areas or sidewalks shall be repaired or replaced as required. Damaged or eroding areas of the asphalt parking surface shall be replaced as required and an overall resurfacing of the parking area shall be done as necessary. Broken bumper stops and/or curbing shall be replaced as required and drainage inlets, storm sewers and any surface drainage facilities shall be maintained in good repair and shall remain clear of debris so as to enable the proper flow of water.

6.16.4 Lighting. Levels of light intensity in the parking areas of all exterior walkways and all illuminated signs shall be maintained at safe levels and bulbs shall be replaced expeditiously as failure occurs. Light standards shall be maintained in good repair and shall be kept functional at all times.

6.16.5 Painting. All painted surfaces shall be repainted on a regular schedule as required to maintain exterior appearance in a clean, neat and orderly manner.

6.16.6 Signs. All electric or other signs shall be maintained in good repair so as to be clear and legible.

6.17 Lot Splitting. There shall be no lot splitting or the moving, removing, or adjusting of boundary lines without the Declarant's prior written consent.

6.18 Restrictions and Covenants Running with the Property. The foregoing agreements, covenants, conditions and restrictions shall constitute a servitude in and upon the Property and every part thereof, and shall run with the Property and inure to the benefit of and be enforceable by Declarant, his successors and assigns, the Association, or any Owner. The failure to enforce any restriction, covenant, condition, obligation, reservation, right, power or charge herein contained shall in no event be deemed a waiver of the right to thereafter enforce any such restriction, covenant, condition, obligation, reservation, right, power or charge.

6.19 Remedies for Violation. Violation or breach of any restriction, covenant, condition, obligation, reservation, right, power or charge herein set forth shall give Declarant, the Association, or any Owner, in addition to all other remedies, the right to proceed at law or in equity to compel compliance with the terms of said restriction, covenant, condition, obligation, reservation, right, power or charge, and to prevent the violation or breach thereof, and the expenses of such litigation, including reasonable attorneys' fees, shall be paid to or allowed by the prevailing party and borne by the other party.

## **ARTICLE 7**

### **DECLARANT'S RIGHTS AND RESERVATIONS**

7.1 Declarant's Rights and Reservations. Nothing in the restrictions contained in this Declaration shall limit, and no Owner or the Association shall do anything to interfere with, the right of Declarant to subdivide or resubdivide any portion of the Property owned by Declarant, or to complete refurbishment of Improvements to and on the Common Area or any portion of the Property owned solely or partially by Declarant and to construct such additional improvements (including Common Facilities) as Declarant deems advisable in the course of the Property's development. Such right shall include, but shall not be limited to, the construction or placement of such Improvements, Common Facilities, displays, signs, billboards, flags, and sales offices as may be reasonably necessary for the conduct of its business of completing the Property's development and disposing of the same by sale, lease, or otherwise. All or any part of the rights of Declarant hereunder and elsewhere in these restrictions may be assigned by Declarant to any successor in interest to any portion of Declarant's interest in any portion of the Property by an express recorded written assignment. Notwithstanding any other provision of the Declaration, the Declarant's prior written approval will be required before any amendments to this Article shall be effective.



**ARTICLE 8**

**INSURANCE**

8.1 Duty to Obtain Insurance; Types. The Board shall obtain or cause to be obtained and continued in effect adequate blanket public liability insurance (including medical payments), in an amount not less than one million dollars (\$1,000,000) covering all claims for personal injury and property damage arising out of a single occurrence or other reasonable minimum amounts as the Board may determine, insuring against liability for bodily injury, death, and property damage arising from the activities of the Association and its members, with respect to the Common Area and any other property under its jurisdiction. The Board shall also obtain or cause to be obtained and continued in effect fire and casualty insurance with extended coverage, without deduction for depreciation, in an amount as near as possible to the full insurable replacement value of any buildings located on the Common Area, if any. Such insurance shall be maintained for the benefit of the Association, the Owners and mortgagees, as their interest may appear as named insureds, subject, however, to loss payment requirements as set forth herein. The Board may purchase such other insurance, as deemed advisable, including but not limited to errors and omissions, directors, officers and agents liability insurance, plate glass insurance, medical payments, malicious mischief, liquor liability, vandalism, fidelity bonds and workers' compensation, and such other risks as shall customarily be covered with respect to planned developments similar in construction, location, and use.

8.2 Waiver of Claims Against Association. As to all policies of insurance maintained by or for the benefit of the Association and the Owners, which policies will not be voided or impaired thereby, the Association and the Owners hereby waive and release all claims against one another, the Board and Declarant, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of a breach of any agreement by any of said persons.

8.3 Rights and Duties of Owners to Insure. It shall be the responsibility of each Owner to provide insurance on its personal property and upon all other property and Improvements within its Lot. Each Owner shall carry public liability insurance to cover his individual liability for damages to persons or property occurring inside its individual Lot and elsewhere upon the Property. All policies carried by Owners shall contain waivers of subrogation of claims against Declarant, the Association, the Board, the officers of the Association, and all other Owners. Each Owner shall review annually the limits of his insurance coverage and increase such limits as appropriate. If in the opinion of the Board, activity is carried on within a Lot or any improvements thereon, that shall result in extra-hazardous risk to the Association, Common Area, or Owners of other Lots, or environmental damage, the Board may require the Owner to insure the Association against such risk. Each Owner shall carry the Association as a named insured on all policies of insurance carried by such Owner, and shall furnish the Association with a current certificate of such insurance at all times. Such policies shall not adversely affect or diminish any insurer's liability under any insurance obtained by or on behalf of the Association and duplicate copies of such other policies shall be deposited with the Board. If any loss intended to be covered by insurance carried by, or on behalf of, the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association, to the extent of such

reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

In lieu of providing insurance policies as required by the first paragraph of this Section 8.3, if an Owner desires to act as a self-insurer, such Owner may do so if such Owner provides to the Board (1) an affidavit of a corporate officer of the Owner (or partner or individual Owner as the case may) that the Owner is self insured, and (2) evidence satisfactory to the Board, in reasonable opinion of the Board directors, that the assets of such corporation, partnership, or individual Owner are sufficient to fund any losses.

8.4 Insurance Premiums. Insurance premiums for any blanket insurance required by Section 8.1, or otherwise deemed necessary by the Board shall be an expense to be included in the Common Expenses.

8.5 Trustee for Policies. The Association, acting through the Board, is hereby appointed and shall be deemed trustee of the interest of all named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any such policies shall be paid to the Board as trustees. The Board shall have full power to receive such insurance proceeds and to deal therewith as provided herein. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried or otherwise disposed of as provided elsewhere in this Declaration. The Board is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers. Any two directors of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on all of the named insureds.

8.6 Actions. Except as otherwise specifically provided in this Declaration, the Board, acting on behalf of the Association and all owners, shall have the exclusive right to bind such parties in respect to all matters affecting insurance carried by the Association, the settlement of a loss claim, and the surrender, cancellation and modification of all such insurance. Duplicate originals of certificates of all policies of fire and casualty insurance maintained by the Association and of all renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all mortgagees who have requested the same in writing.

8.7 Annual Insurance Review. The Board shall review the insurance carried by or on behalf of the Association at least annually, for the purpose of determining the amount of the casualty and fire insurance coverage referred to in Section 9.1.

8.8 Required Waiver. All policies of physical damage insurance shall provide, if reasonably possible, for waiver of the following rights to the extent that the respective insurers would have the rights without such waivers:

8.8.1 Subrogation of claims against the tenants of the Owners;

8.8.2 Any defense based upon co-insurance;

8.8.3 Any right to set-off, counterclaim, apportionment, pro-ratio or contribution by reason of other insurance not carried by the Association;

8.8.4 Any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, an Owner or any tenant of any Owner, or arising from any act, neglect, or omission of any named insured or the respective agents, contractors, or employees of any insured;

8.8.5 Any right to the insurer to repair, rebuild, or replace, and, in the event the building is not repaired, rebuilt, or replaced following loss, any right to pay under the insurance policy an amount less than the replacement value of the Improvements insured;

8.8.6 Notice of the assignment of any Owner of its interests in the insurance by virtue of a conveyance of any Lot; and

8.8.7 Any right to require any assignment of any mortgage to the insurer.

## ARTICLE 9

### **RIGHTS OF INSTITUTIONAL MORTGAGEES**

9.1 Additional Restrictions. Notwithstanding any other provision of this Declaration, no amendment or violation of this Declaration shall operate to defeat any mortgagee or render invalid the rights of the beneficiary under any deed of trust upon a Lot made in good faith and for value, provided that after the foreclosure of any such mortgage such Lot shall remain subject to this Declaration, as amended. Notwithstanding any and all provisions of this Declaration to the contrary, the following provisions are added hereto (and to the extent these added provisions pertaining to rights of mortgagees conflict with any other provisions of this Declaration or any other of the restrictions, these added restrictions shall control):

9.1.1 Each Institutional Mortgagee which is the holder of a first mortgage encumbering any Lot, upon filing a written request for notification with the Board, is entitled to written notification from the Association of any material default by the mortgagor of such Lot in the performance of such mortgagor's obligations under this Declaration, the Articles or the By-Laws, which default is not cured within thirty (30) days after the Association learns of the default. For purposes of this Declaration, a "first mortgagee" shall mean a mortgagee of a mortgage with first priority over other mortgages.

9.1.2 Each Institutional Mortgagee which is the holder of a first mortgage which obtains title to such Lot pursuant to judicial foreclosure, pursuant to the powers provided in such mortgage, or by deed (or assignment) in lieu of foreclosure, shall take title to such Lot free and clear of any claims for unpaid assessments or charges against such Lot which accrued prior to the time such holder acquires title to such Lot, except for those accruing prior to the recording of the mortgage.

9.1.3 Institutional Mortgagees which are the holders of first mortgages on Lots, upon written request to the Board, shall have the right to examine the books and records of the Association during normal business hours.

**ARTICLE 10**

**GENERAL PROVISIONS**

10.1 Duration and Remedies for Violation. The covenants and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Declarant, the Association or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time the covenants and restrictions shall automatically be extended for successive periods of ten (10) years unless an instrument signed by the then Owners of two-thirds (2/3) of the Lots has been recorded, agreeing to change or terminate the covenants and restrictions in whole or in part. Violation or breach of any condition, covenant, or restriction herein contained shall give the Declarant and/or Association and/or Owner(s) in addition to all other remedies, the right to proceed at law or in equity to compel a compliance with the terms of said conditions, covenants, or restrictions, and to prevent the violation or breach of any of them, and the expense of such litigation shall be borne by the then Owner or Owners of the subject property, provided such proceeding results in a finding that such Owner was in violation of the covenants and restrictions. Expenses of litigation shall include reasonable attorneys' fees incurred by the Declarant and/or the Association in seeking such enforcement.

10.2 Severability. [Intentionally Deleted]

10.3 Amendment. This Declaration may be terminated, extended, modified, or amended, at any time and from time to time upon the execution and recordation of an instrument executed by the Board with the written consent of the Owners of at least seventy-five percent (75%) of the Property; provided that so long as Declarant is an Owner of any Lot, or any Property affected by this Declaration, or amendment thereto, or appoints a director of the Association, no amendment will be effective without Declarant's express written joinder and consent. However, Declarant acting alone has the express power to amend this Declaration pursuant to Section 2.2. Any amendment to the Covenants and Restrictions which alter any provision relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the St. Johns River Water Management District.

10.4 Legal Proceedings. The failure of any Owner, patrons, guests, employees, invitees, and tenants to comply with any of the conditions, covenants and restrictions, after "notice and hearing" as set forth (except for the nonpayment of any Assessments provided for herein) shall be grounds for relief which may include, without limiting same, an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof. The Board, any Owner (not at the time in default hereunder) or Declarant shall be entitled to bring an action for damages against any defaulting Owner, and in addition may enjoin any violation of this Declaration. The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in the Covenants and Restrictions which relate to the maintenance, operation and repair of the surface water or stormwater management system. Any judgment rendered in any action or proceeding pursuant thereto shall include a sum for attorneys' fees in such amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any

delinquent payment, interest thereon, costs of collection and court costs. Each remedy provided for in this Declaration shall be cumulative and not exclusive or exhaustive.

10.5 Attorney's Fees. In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provision hereof, the losing party or parties shall pay the attorneys' fees of the prevailing party or parties, in such amount as may be fixed by the court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

10.6 Failure to Enforce Not a Waiver of Rights. The failure of Declarant, the Association or any Owner to enforce any restriction or right herein contained shall in no event be deemed to be a waiver of the right to do so thereafter nor of the right to enforce any other restrictions or rights.

10.7 Notices. Except as otherwise provided in this Declaration, in each instance in which notice is to be given to a Member or an Owner, the same shall be in writing and may be delivered personally to the Member or Owner, in which case personal delivery of such notice to one or more co-owners of a Lot or to any general partner of a partnership owning a Lot shall be deemed delivered to all co-owners or to the partnership, as the case may be. Personal delivery of such notice to any officer or agent for the service of process on a corporation shall be deemed delivery to the corporation. In lieu of the foregoing, such notice may be delivered by regular United States mail, postage prepaid, addressed to the Member or Owner at the most recent address furnished by such Member or Owner to the Association or, if no such address shall have been furnished, to the street address of such Lot. Such notice shall be deemed delivered seventy-two (72) hours after the time of such mailing, except for notice of a meeting of the Association or of the Board, in which case the notice provisions of the By-Laws shall control. Any notice to be given to the Association may be delivered personally to any member of the Board, or sent by United States mail, postage prepaid, addressed to the Association at such address as shall be fixed from time to time and circulated to all Owners.

10.8 Priorities and Inconsistencies. If there are conflicts or inconsistencies between this Declaration and either the Articles or the By-Laws, the terms and provisions of this Declaration shall prevail.

10.9 Effect of Invalidation. If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

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

10.11 Effective Date. This Declaration shall become effective upon its recordation in the Public Records of Duval County, Florida.

10.12 Trustee Liability. Any contract, obligation, or indebtedness of any nature whatsoever incurred, undertaken, or entered into by each trustee executing this Declaration in connection with the Property is as trustee of an express trust, and not individually; and neither trustee shall have any obligation whatsoever with respect to any such contract, obligation, or indebtedness except only so

far as the property pursuant to the Richard G. Skinner, Jr. Land Trust dated December 30, 1983 shall be applicable to its payment or other discharge. It is expressly understood that any and all representations, warranties, covenants, undertakings, and agreements hereafter made by the trustees, although in form purporting to be the representations, warranties, covenants, undertakings, and agreements of the trustees, are nevertheless made and intended not as personal representations, warranties, covenants, undertakings, and agreements, or for the purpose or with the intention of binding the trustees personally, but are made and intended for the purpose of binding only the Property and other property held pursuant to the Richard G. Skinner, Jr. Land Trust dated December 30, 1983. No personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforceable against, the trustees individually on account of any instrument, act or omission by the trustees with respect to the Property or by or on account of any representation, warranty, covenant, undertaking, or agreement of the trustees, express, implied, or otherwise arising by operation of law; and all such personal liability, if any, is hereby expressly waived, released, and disclaimed. All parties shall be charged with notice of the foregoing from and after the recording of this Declaration in the Public Records of Duval County, Florida.

IN WITNESS WHEREOF, the Declarant and Troy M. Davis have caused these presents to be executed as required by law on this, the day and year first above written.

Signed, sealed and delivered in the presence of:

Sara S Miller  
[print name] Sara S Miller

Peter D. Baillet  
Peter D. Baillet, as Trustee aforesaid


SUZANNE POPPENHAGER  
[print name] Suzanne Poppenhager

STATE OF FLORIDA:

COUNTY OF Duval

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of October, 2001 by Peter D. Baillet, as Trustee of the Richard G. Skinner, Jr., Land Trust dated December 31, 1983, who  is personally known to me or who \_\_\_\_\_ has produced \_\_\_\_\_ as identification.

Nancy J. Davis  
Print Name: Nancy J. Davis  
Notary Public, State of Florida  
My Commission Expires:

(NOTARY SEAL)  
  
**NANCY J. DAVIS**  
Notary Public, State of Florida  
CC# 795987  
Commission Expires December 8, 2002  
Bonded Through Cecil W. Powell & Co.

Terrie Lee Taylor  
[print name] Terrie Lee Taylor

William R. Blackard, Jr.  
William R. Blackard, Jr., as  
Trustee aforesaid

Kenneth M. Reece Jr  
[print name] Kenneth M. Reece Jr

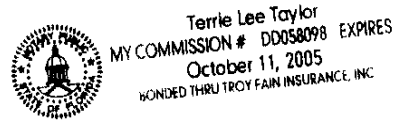
STATE OF FLORIDA:

COUNTY OF : Duval

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of October, 2001, by William R. Blackard, Jr., as Trustee of the Richard G. Skinner, Jr., Land Trust dated December 31, 1983, who ✓ is personally known to me, or who        has produced        as identification.

Terrie Lee Taylor  
Print Name:  
Notary Public, State of Florida  
My Commission Expires:

(NOTARY SEAL)



*Troy M Davis*  
[print name] Troy M. Davis

*Troy M Davis*  
Troy M Davis

*W.S. Millsaps*  
[print name] W.S. Millsaps

STATE OF FLORIDA:

COUNTY OF Duval

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of OCTOBER, 2001 by Troy M. Davis, who  is personally known to me or who  has produced \_\_\_\_\_ as identification.

(NOTARY SEAL)

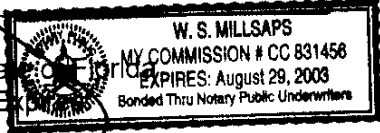
*W.S. Millsaps*  
Print Name: \_\_\_\_\_  
Notary Public, State of Florida  
My Commission Expires: \_\_\_\_\_  




EXHIBIT A

Roadway Area

That portion of the following described tract or parcel of land lying and being situate in Duval County, Florida that is located within the boundaries of the property shown and depicted on the Plat:

A portion of Section 29, Township 3 South, Range 28 East, Jacksonville, Duval County, Florida being more particularly described as follows:

Being the same property described as "Access and Drainage Easement" on Exhibit C to that certain Declaration of Easements and Restrictive Covenants dated June 2, 1999, and recorded in Official Records Book 9312, page 450, in the public records of Duval County, Florida.

**EXHIBIT B**

A portion of Lot 3, Reedy Branch Commons, as recorded in Plat Book 53, Pages 99 and 99A of the Current Public Records of Duval County, Florida, being more particularly described as follows:

For a Point of Reference, commence at the Northwest corner of said Lot 3; thence the following 3 courses along the Westerly line of said Lot 3: Course One - South  $00^{\circ} 57' 57''$  East, 50.00 feet; Course Two - North  $89^{\circ} 02' 03''$  East, 22.02 feet; Course Three - South  $24^{\circ} 42' 26''$  East, 444.96 feet; thence North  $65^{\circ} 17' 34''$  East, departing said Westerly lot line, 31.00 feet to the Point of Beginning.

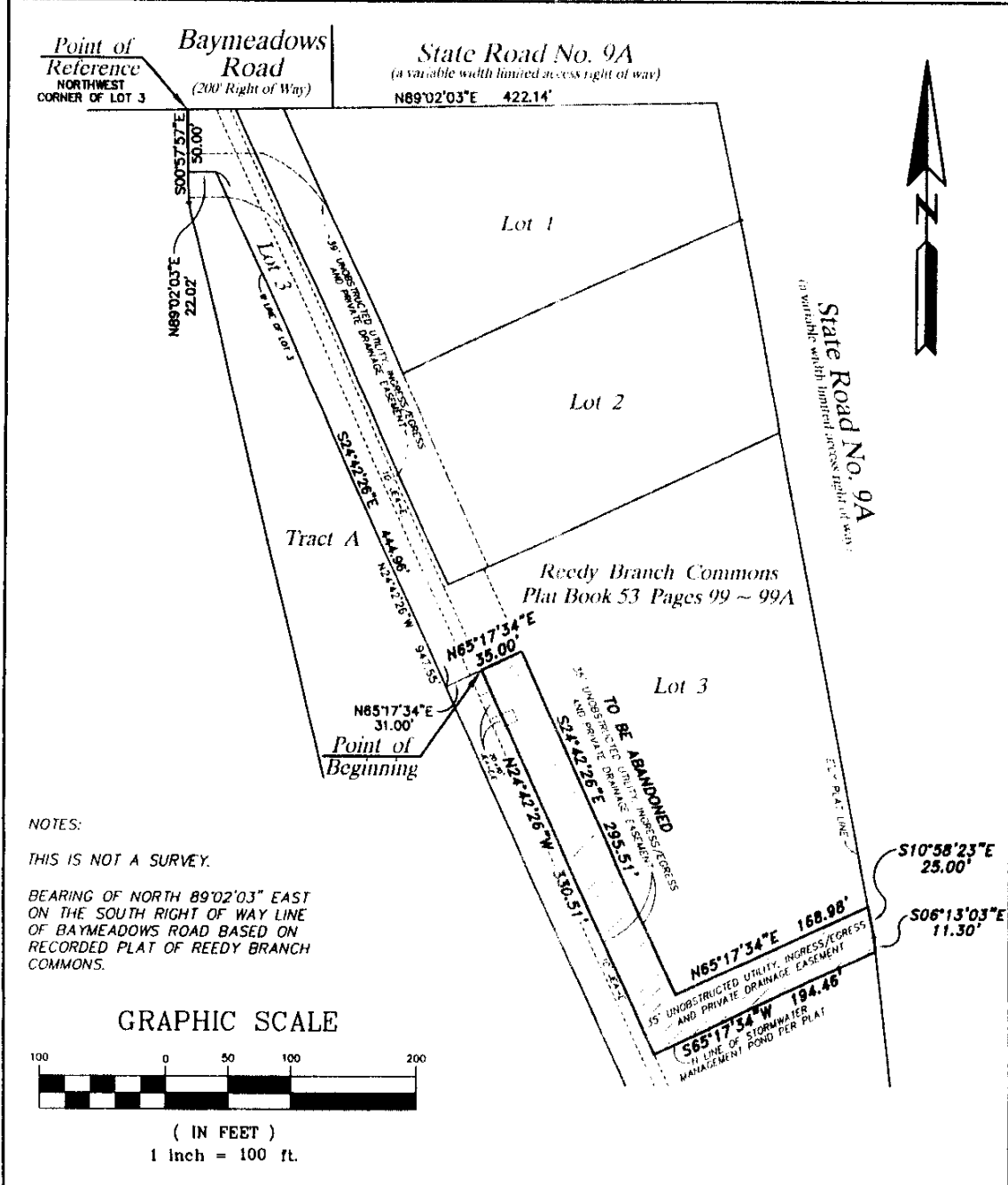
From the Point of Beginning thus described, continue North  $65^{\circ} 17' 34''$  East, 35.00 feet; thence South  $24^{\circ} 42' 26''$  East, 295.51 feet; thence North  $65^{\circ} 17' 34''$  East, 168.98 feet to the Easterly plat line; thence South  $10^{\circ} 58' 23''$  East, along said Easterly plat line, 25.00 feet; thence South  $06^{\circ} 13' 03''$  East, continuing along said Easterly plat line, 11.30 feet to the Northerly line of the Stormwater Management Pond (Unobstructed Drainage Easement), as shown on said plat; thence South  $65^{\circ} 17' 34''$  West, along said Northerly easement line, 194.46 feet; thence North  $24^{\circ} 42' 26''$  West, departing said Northerly easement line, 330.51 feet to the Point of Beginning.

The above described property is generally shown and depicted as "To Be Abandoned" on the sketch attached hereto as Exhibit B-1.

# SKETCH TO ACCOMPANY DESCRIPTION

A PORTION OF LOT 3 OF REEDY BRANCH COMMONS, AS RECORDED IN PLAT BOOK 53, PAGES 99 AND 99A OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA.

BEING MORE PARTICULARLY DESCRIBED IN SEPARATE ATTACHMENT



NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

**Robert M. Angas Associates, inc.**  
LAND SURVEYORS, PLANNERS AND CIVIL ENGINEERS  
SINCE 1924

14775 St. Augustine Road, Jacksonville, FL. 32258 Tel: (904) 642-8550  
Certificate of Authorization No.: LB 3624

*David L. Lamp*

**DAVID L. LAMPP**  
PROFESSIONAL SURVEYOR AND MAPPER  
STATE OF FLORIDA LS No. 3535

SCALE: 1" = 100'      DATE: OCTOBER 10, 2001

## EXHIBIT C

Portions of Lots 2, 3 and Tract A of Reedy Branch Commons, as recorded in Plat Book 53, Pages 99 and 99A of the Current Public Records of Duval County, Florida, being more particularly described as follows:

For a point of Reference, commence at the Northwest corner of said Lot 3, said point also lying on the Southerly right-of-way line of Baymeadows Road, a 200 foot wide right-of-way; thence South  $00^{\circ}57'57''$  East, along the West lot line of Lot 3 and departing said Southerly right-of-way line, a distance of 35.21 feet to the Point of Beginning.

From the Point of Beginning thus described, continue South  $00^{\circ}57'57''$  East, along said West lot line and the West line of said Tract A, a distance of 35.00 feet; thence North  $89^{\circ}02'03''$  East, departing said West lot line, a distance of 27.50 feet to a point of curvature; thence Southeasterly, along and around the arc of a curve concave Southwesterly with a radius of 60.50 feet, an arc length of 68.68 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South  $56^{\circ}20'53''$  East, 65.05 feet; thence South  $24^{\circ}42'26''$  East, a distance of 368.88 feet; thence North  $65^{\circ}17'34''$  East, a distance of 7.50 feet; thence South  $24^{\circ}42'26''$  East, a distance of 292.25 feet; thence North  $65^{\circ}13'52''$  East, a distance of 152.98 feet; thence South  $48^{\circ}32'40''$  East, a distance of 42.00 feet to a point on the Northerly line of the Stormwater Management Pond (Unobstructed Drainage Easement); thence North  $65^{\circ}17'34''$  East, a distance of approximately 16.90 feet, more or less, along said Northerly easement line to the Westerly right-of-way line of State Road No. 9A, a variable width limited access right-of-way; thence North  $48^{\circ}32'40''$  West, departing last said line, a distance of 69.10 feet; thence South  $65^{\circ}13'52''$  West, a distance of 134.77 feet; thence North  $24^{\circ}42'26''$  West, a distance of 268.22 feet; thence North  $65^{\circ}17'34''$  East, a distance of 3.50 feet; thence North  $24^{\circ}42'26''$  West, a distance of 72.75 feet; thence North  $65^{\circ}17'34''$  East, a distance of 4.00 feet to a point lying on the Southerly prolongation of the Westerly line of Lot 1, said Reedy Branch Commons; thence North  $24^{\circ}42'26''$  West, along said Southerly prolongation and said Westerly line, a distance of 296.12 feet to the point of curvature; thence Northwesterly, along and around the arc of a curve concave Southwesterly with a radius of 108.50 feet, an arc length of 82.07 feet to a point on said curve, said arc being subtended by a chord bearing and distance of North  $46^{\circ}22'40''$  West, 80.13 feet; thence South  $89^{\circ}02'03''$  West, a distance of 59.66 feet to the Point of Beginning.

The above described property is generally shown and depicted as the cross-hatched area on Exhibit C-1 attached hereto.

**SKETCH TO ACCOMPANY DESCRIPTION**

PORTIONS OF LOTS 2, 3, AND TRACT A OF REEDY BRANCH COMMONS, AS RECORDED IN PLAT BOOK 53, PAGES 99 AND 99A OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, ALONG WITH A PORTION OF SECTION 29, TOWNSHIP 3 SOUTH, RANGE 28 EAST OF SAID COUNTY. BEING MORE PARTICULARLY DESCRIBED IN SEPARATE ATTACHMENT

