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**DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR HIGHLAND LAKES RESERVE**

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**INDEX OF EXHIBITS**

**ATTACHED TO DECLARATION OF COVENANTS AND  
RESTRICTIONS FOR HIGHLAND LAKES RESERVE**

Exhibit "A"..... Legal Description of Property  
Exhibit "B"..... Articles of Incorporation  
Exhibit "C"..... Bylaws  
Exhibit "D"..... Joinder and Consent by Mortgagee  
Exhibit "E"..... Environmental Resource Permit  
Exhibit "F"..... Eagle Management Plan  
Exhibit "G"..... Scrub Habitat Management Plan

**DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR HIGHLAND LAKES RESERVE**

**THIS DECLARATION OF COVENANTS AND RESTRICTIONS FOR HIGHLAND LAKES RESERVE** (this "Declaration") is made this 10 day of November, 2006, by FL LAND PARTNERS, LLC, a Delaware limited liability company, authorized to do business in Florida ("Declarant"), whose address is 7208 Sand Lake Road, Suite 304, Orlando, Florida 32819.

**RECITALS:**

A. Declarant owns the real property described in the plat for Highland Lakes Reserve, as recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_, of the Public Records of Highlands County, Florida and which is also more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

B. The Property is a residential community known as "Highland Lakes Reserve".

C. Declarant desires to preserve and enhance the values and quality of life in the Property and the health, safety and welfare of the residents thereof, and to provide for the maintenance of certain areas and improvements for the benefit of the Property.

D. Declarant has incorporated a non-profit corporation to which will be conveyed title to certain property, and to which will be delegated the powers of and responsibility for maintaining and administering certain property and improvements, administering and enforcing this Declaration, and collecting and disbursing the monies derived from the assessments hereafter levied.

**DECLARATIONS:**

NOW THEREFORE, Declarant declares that the Property is and shall be owned, improved, transferred and occupied subject to this Declaration, and that the terms and conditions of this Declaration are intended to run with the land.

**ARTICLE I**

**DEFINITIONS**

The terms used in this Declaration shall be given their natural, commonly accepted definitions unless otherwise specified herein. Capitalized terms shall be defined as set forth below.

1.1 "Areas of Common Responsibility" shall mean and refer to any land or improvement located in or near the Property which may be owned by the Association and which is intended to be improved, maintained or operated by the Association in the manner and to the extent determined from time to time by the Board. Areas of Common Responsibility shall be designated by this Declaration, any Supplemental Declaration, a contract entered into by the Association, or by a decision of the Board. The following are hereby designated as Areas of Common Responsibility:

A. Rights of Way and Entrance Areas. Subject to limitations imposed by governmental authority, the Association shall maintain, repair and replace to the extent determined by the Board the signs, lighting fixtures, electrical equipment, drainage improvements (in accordance with the Surface Water Management System permit issued by the District), irrigation lines and equipment, landscape materials and features, private internal roads, entry gates and other improvements from time to time located, within the entry areas on State Road 66 and Sparta Road, and within any unpaved medians in the rights-of-ways as shown on the Plat of the Property;

B. Drainage Improvements within Easements. The Association shall maintain, repair and replace all drainage improvements within the Property, including without limitation within all platted

drainage easements, all in accordance with the Surface Water Management System permit issued by the District and applicable stormwater regulations. The foregoing to the contrary notwithstanding, each Owner shall provide routine landscape maintenance, mowing and removal of trash and debris within any portion of the Surface Water Management System lying within that Owner's Parcel, failing which the Association shall perform the required maintenance and levy an individual assessment to cover the costs thereof;

C. Easements. The Association shall maintain, repair and replace any signs, drainage improvements (in accordance with the Surface Water Management System permit issued by the District), irrigation lines and equipment, landscape materials and features, and other improvements from time to time, created in favor of the Association on any plat of the Property.

1.2 "Articles" shall mean the Articles of Incorporation of Highland Lakes Reserve Property Owners Association, Inc. as filed with the Florida Secretary of State, a copy of which is attached hereto as Exhibit "B" and made a part hereof by reference.

1.3 "Assessment" means each Member's proportionate share of the funds required for the payment of Common Expenses, which from time to time shall be assessed against the Members of the Association. Assessments may sometimes be referred to as "Base Assessments."

1.4 "Association" shall mean and refer to Highland Lakes Reserve Property Owners Association, Inc., its successors and assigns.

1.5 "Association Property" shall mean all interests in real and personal property transferred or conveyed to the Association for the benefit of the Members, including but not limited to, the easements granted to the Association herein.

1.6 "Board" shall mean the Board of Directors of the Association.

1.7 The terms "Business" and "Trade" shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis, which involves the offering and/or delivery of goods or services to persons other than the provider's family, and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

1.8 "Bylaws" shall mean and refer to the Bylaws of the Association, attached hereto as Exhibit "C" and made a part hereof by reference.

1.9 "City" shall mean the City of Sebring, Florida.

1.10 "Common Expenses" shall mean and include the actual and estimated expenses incurred or anticipated to be incurred for operating the Association in performing its duties and in exercising its prerogatives, including without limitation, costs incurred for operation, maintenance, insurance and improvement of the Common Property and Areas of Common Responsibility, and for any reserves from time to time established by the Board. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs unless approved by the Members representing a majority of the total Class "A", as defined in the Bylaws, vote of the Association.

1.11 "Common Property" shall mean and refer to the real and personal property from time to time owned or intended to be owned by the Association and devoted to the use and enjoyment of all Members of the Association, all at Common Expense. Common Property shall include, but not be limited to, easement areas which are held by the Association as grantee.

1.12 "Conservation Areas" shall mean any portion of the Property which is intended to be preserved and maintained in a natural state in perpetuity. The Conservation Areas shall include the Preservation Areas as described in Section 12.1 and other preserved wetlands and uplands, as more specifically described and located herein, on the Plat and in the Corps Permit and Environmental Resource Permit defined hereinbelow.

1.13 "Corps Permit" shall mean the U.S. Army Corps of Engineers permit for Highland Lakes Reserve.

1.14 "County" shall mean Highlands County, Florida.

1.15 "Declarant" shall mean and refer to FL LAND PARTNERS, LLC, a Delaware limited liability company, its successors and/or assigns.

1.16 "Declaration" shall mean this Declaration of Covenants and Restrictions for Highland Lakes Reserve, as may be amended from time to time.

1.17 "Development Agreement" shall mean that certain Development Agreement between the Declarant and the City of Sebring, recorded at Official Records Book 1883, Page 1853, public records of Highlands County, Florida. The terms and conditions of the Development Agreement are hereby incorporated by reference into this Declaration. Requirements in the Declaration which are more stringent or which otherwise exceed those of the Development Agreement shall prevail.

1.18 "District" shall mean and refer to the Southwest Florida Water Management District, an agency created pursuant to Chapter 373, Florida Statutes.

1.19 "Environmental Resource Permit" shall mean and refer to Permit No. 43021800.004 dated June 27, 2006, attached hereto as Exhibit "E" and made a part hereof, issued by the Southwest Florida Water Management District for the construction and operation of the Surface Water Management System. The registered agent for the Association, or such other person as shall be designated by the Association, shall maintain copies of further Southwest Florida Water Management District permitting actions for the benefit of the Association.

1.20 "Homeowners Documents" means this Declaration, the Articles, and the Bylaws of the Association, as well as all of the instruments and documents referred to herein and executed in connection with Highland Lakes Reserve.

1.21 "Institutional Mortgagee" shall mean any of the following institutions, or subsidiary thereof, which holds a Mortgage on any portion of the Property: any holder of a mortgage encumbering any portion of the Property at the time of recording the Declaration, a bank, state or federal savings and loan association, mortgage banking company authorized to do business in the State of Florida, insurance company or union pension fund authorized to do business in the State of Florida, a real estate investment trust, the Government National Mortgage Association, the Federal National Mortgage Association, a Federal Home Loan Mortgage Corporation, the Federal Housing Administration/Veterans Administration, the County Housing Authority or similar entity, or a lender generally recognized in Highlands County, Florida as an institutional lender. In each and every instance in which the Declarant holds a mortgage on the Property, the term Institutional Mortgagee shall also include the Declarant. In the event of any question or dispute concerning the application of the term "Institutional Mortgagee" to any particular party, the Declarant may, without obligation or liability, in its sole discretion, determine whether said party is an "Institutional Mortgagee" for purposes of this Declaration.

1.22 "Member" shall mean a member of the Association as provided in ARTICLE III herein.

1.23 "Mortgage" means a mortgage, a deed to secure a debt or any form of security deed in favor of an Institutional Mortgagee.

1.24 "Mortgagee" means a beneficiary or holder of a mortgage in favor of an Institutional Mortgagee on any portion of the Property.

1.25 "Mortgagor" means an Owner who gives a mortgage.

1.26 "Owner" shall mean and refer to one or more Persons (defined below) who holds fee simple title to any Parcel on the Property and which is subject to this Declaration, but excluding any party holding an interest merely as security for the performance of an obligation. Notwithstanding any applicable theory of law of mortgages, Owner shall not mean or refer to any Mortgagee unless and until such Mortgagee has acquired title to a Parcel pursuant to foreclosure proceedings or a conveyance in lieu of foreclosure. All owners of a single Parcel shall be treated for all purposes as a single Owner irrespective of whether such ownership is joint, in common, or tenancy by the entirety.

1.27 "Parcel" shall mean each residential building site created by any recorded plat of the Property, including any dwelling and/or other barn, stable, or other such out buildings used in connection with the dwelling located thereon, once constructed.

1.28 "Person" means a natural person, a corporation, a partnership, a trustee, or other legal entity.

1.29 "Plat" shall mean and refer to the Plat of Highland Lakes Reserve, as recorded in the public records of Highlands County, Florida.

1.30 "Property" shall mean and refer to the real Property described in the Plat, which is more particularly described in **Exhibit "A"** to this Declaration subject to this Declaration.

1.31 "Residential Dwelling" shall mean and refer to any improvement intended for use and occupancy by a Single Family.

1.32 "Roads" shall mean and refer to any street or thoroughfare which is constructed by Declarant, whether same is designated, for example, by way of illustration and not as limitation, as a street, avenue, boulevard, drive, place, court, road, terrace, way, circle, lane, walk or similar designation.

1.33 "Rules and Regulations" shall mean the rules, regulations, and policies as may be adopted by the Board from time to time by resolution duly made and carried, which shall be incorporated into this Declaration as if more fully set forth herein.

1.34 "Setbacks" shall mean and refer to those building setback requirements established by the City, and/or the Architectural Control Committee, as set forth in this Declaration.

1.35 "Single Family" means one person or a group of two or more persons living together and interrelated by bonds of consanguinity, marriage, or legal adoption, or not more than a reasonable number of persons living together who are not interrelated.

1.36 "Supplemental Declaration" shall mean and refer to any instrument which extends the effect of this Declaration to Additional Property pursuant to ARTICLE II.

1.37 "Surface Water" or "Stormwater 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 discharge.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION

2.1 Property. The Property is and shall be improved, held, transferred and occupied subject to this Declaration.

2.2 Additional Property. Declarant shall have the right but not the obligation to bring within the scope of this Declaration, as Additional Property, additional lands lying within the vicinity of the Property at any time from the date of this Declaration to the date of Turnover, as defined herein. Annexation may be accomplished by Declarant without the consent of the Association, the Owners, any mortgagee or other lienholders, or anyone else.

2.3 Method of Annexation. Additions authorized under ARTICLE II shall be made, if at all, by recording a Supplemental Declaration extending this Declaration to Additional Property. The Supplemental Declaration shall describe the real property to be annexed and shall state that it is being made pursuant to the terms of this Declaration for the purpose of annexing property to this Declaration and extending the jurisdiction of the Association to the Additional Property. The Supplemental Declaration may contain additional terms not inconsistent with this Declaration to reflect the different character, if any, of the real property being annexed or of the housing or development approaches being implemented. Upon the recordation of any Supplemental Declaration, the Owners shall also have a right and non-exclusive easement of use and enjoyment in and to the Common Property, if any, within the Additional Property and an obligation to contribute to the cost of operating, maintaining and insuring the additional Common Property and any additional Areas of Common Responsibility. Any Supplemental Declaration recorded in accordance with the terms hereof shall be conclusive in favor of all persons who rely thereon in good faith. From and after recordation of any Supplemental Declaration, the Additional Property described therein shall be subject to the provisions of this Declaration and to the jurisdiction of the Association.

## ARTICLE III

### ASSOCIATION FUNCTION, MEMBERSHIP AND VOTING RIGHTS

3.1 The Association. The Association is a nonprofit corporation. The Association shall have the power to do all lawful things which may be authorized, assigned, required or permitted to be done by this Declaration, the Articles, or the Bylaws, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the duties or powers of the Association for the benefit of the Owners and for the maintenance, administration and improvement of the Property, Common Property and Areas of Common Responsibility. Neither the Articles nor the Bylaws shall be amended or interpreted so as to be inconsistent with this Declaration. In the event of any such inconsistency, the provisions of this Declaration shall prevail. The officers and directors of the Association shall be required to be either (1) a Member of the Association, or (2) an agent of Declarant. The Board, and such officers as the Board may appoint, shall conduct the affairs of the Association.

3.2 Membership. Each Owner (including Declarant) shall be a Member of the Association. The Association membership of each Owner shall be appurtenant to and inseparable from the Parcel giving rise to such membership, and any transfer of title to a Parcel shall operate automatically to transfer to the new Owner the membership in the Association appurtenant to that Parcel.

3.3 Voting Rights. The Association shall have two (2) classes of voting membership:

A. Class "A". Class "A" Members shall be all Owners, with the exception of Declarant for so long as Declarant retains Class "B" voting rights. Each Class "A" Member shall have one (1) vote for each Parcel owned by that Member.

B. Class "B". The sole Class "B" Member shall be Declarant. Declarant shall be entitled to seven (7) votes for each Parcel in the Property owned by Declarant, plus three (3) votes for each potential subdivision parcel that has not yet been annexed but which could be developed upon the lands eligible for annexation to the Property under the terms of the Declaration.

C. Termination of Class "B" Membership. As each Parcel in the Property is conveyed by Declarant to a Class "A" Member, Declarant's votes for that Parcel shall lapse. The Class "B" membership shall terminate and become converted to Class "A" membership upon the earlier of the following:

- (i) When the total outstanding Class "A" votes in the Association equals or exceeds the total outstanding Class "B" votes; or
- (ii) Ten (10) years from the date of recording this Declaration; or
- (iii) At such earlier time as Declarant, in its sole discretion, may so elect.

Upon the happening of any one of these events, Declarant shall call a special meeting of the Members to advise of the termination of Class "B" membership.

D. Turnover. Any other provision of this ARTICLE III to the contrary notwithstanding, Owners other than Declarant shall be entitled to elect at least a majority of the members of the Board of Directors not later than three (3) months after ninety percent (90%) of the total Parcels that will be ultimately operated by the Association have been conveyed to Owners. Declarant shall be entitled to elect at least one member of the Board of Directors as long as Declarant holds for sale in the ordinary course of business at least five percent (5%) of the total lots in Highland Lakes Reserve. After Declarant relinquishes control of the Association, Declarant may exercise the right to vote any Declarant-owned voting interests in the same manner as any other Owner, except for purposes of reacquiring control of the Association or selecting the majority of the members of the Board of Directors.

3.4 Multiple Owners. Each vote in the Association must be cast as a single vote, and fractional votes shall not be allowed. If joint or multiple Owners are unable to agree among themselves as to how their vote is to be cast, or if more than one (1) Class "A" vote is cast for any Parcel, none of the votes for that Parcel shall be counted. If any Owner casts a vote on behalf of a Parcel, it shall be conclusively presumed that Owner was acting with the authority and consent of all other Owners of that Parcel.

## ARTICLE IV

### GENERAL MAINTENANCE RESPONSIBILITIES

#### 4.1 Association's Responsibility.

A. The Association shall maintain and keep in good repair the Common Property and Areas of Common Responsibility, and all areas of Highland Lakes Reserve including without limitation, roads, gates, walls, landscaping, lighting, irrigation, signs, drainage and other improvements from time to time located thereon. Except to the extent maintenance of any portion of the Surface Water Management System has been assumed by any governmental authority, it is the responsibility of the Association, at Common Expense, to operate, maintain and repair the Surface Water Management System and to enforce, or to take such appropriate action as may be necessary to cure violations of, the routine maintenance and non-interference covenants of the Owners under this Declaration, and, when appropriate, to levy special assessments or individual assessments therefore. Maintenance of the Surface Water Management System shall include the exercise of practices which allow the system to provide drainage, water storage, conveyance and other surface water or stormwater management capabilities as permitted by the District. Any repair or reconstruction of the Surface Water Management System shall be as originally permitted or, if modified, as approved by the District.

B. Unless otherwise provided herein, the maintenance costs to the Association shall be assessed equally among the Owners, as part of the Common Expenses pursuant to the provisions of this Declaration.

C. The Association may maintain property which it does not own, including, without limitation, property dedicated to the public, if the Board determines that such maintenance is necessary or desirable to maintain the health and safety of any Owners, or in the event of default by any Owner in the duties hereby imposed.

4.2 Owner's Responsibility. Each Owner shall keep and maintain that Owner's Parcel and all building and other improvements and landscaping located on that Owner's Parcel in good repair and in a neat and attractive condition. The maintenance obligation of each Owner as to building improvements shall include, without limitation, maintenance of all exterior surfaces and roofs, fascias and soffits, awnings, trellises, decorative facades, screens, windows and doors. Owners shall clean, repaint or re-stain, as appropriate, the exterior portions of the building improvements (with the same colors as initially approved), including exterior surfaces of garage doors, as often as is necessary to comply with the foregoing standards. Each Owner shall also keep, maintain and irrigate the trees, shrubbery, grass and other landscape material located on that Owner's Parcel in good repair and in a neat and attractive condition. The minimum but not exclusive standard for maintenance of landscaping shall be consistency with the approved plans thereof and with the general appearance of the other occupied Parcels in the Property as a whole when initially landscaped (taking into account, however, the natural and orderly growth and maturation of applicable landscaping, as properly trimmed and maintained). Landscape maintenance shall include, without limitation, irrigation, fertilization, weeding, mowing, trimming, spraying for insects and disease, and periodic replacement of dead, damaged or diseased plantings.

To the extent not included in the areas required to be maintained by the Association pursuant to Section 4.1 of this Article, each Owner shall, at that Owner's expense, grass over, mow and keep free of trash and debris, on a routine basis, any portion of the Surface Water Management System located on that Owner's Parcel (whether or not included in a platted drainage easement). When required, major repairs to, and major maintenance and reconstruction of, components of the Surface Water Management System will be performed by the Association, at Common Expense. Each Owner shall grass over, mow and keep free of trash and debris, on a routine basis, the unpaved portion of any platted street(s) abutting the Owner's Parcel. Each Owner shall be responsible for the maintenance, operation and repair of the swales, if any, on the Owner's Parcel. Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the District. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the swale shall be authorized and any damage to any swale, whether caused by natural or human-induced phenomena, shall be repaired and the swale returned to its proper condition as soon as possible by the Owner(s) of the Parcel(s) upon which the swale is located.

The Association shall have the right but not the obligation to provide exterior repair and maintenance on any Parcel or any improvement thereon in the event of default by any Owner in the duties hereby imposed. Prior to performing repair or maintenance on any Parcel, the Board shall determine that there is need of repair or maintenance and such need detracts from the overall appearance of the Property. Except in emergency situations, prior to commencement of any work, the Board must furnish written notice to the Owner to the effect that, unless specified repairs or maintenance are commenced within fifteen (15) days after the mailing of the notice, and thereafter diligently pursued to completion, the Association may procure said repairs. Upon the Owner's failure to commence timely and to diligently pursue the repairs or maintenance, the Association and its agents or employees shall have the right to enter in or upon the Parcel and the exterior of any improvement thereon to perform the repairs or maintenance specified in the notice. In this regard, the Association shall have the right to do such things as, but not limited to, paint, repair, replace and care for pools, pool enclosures, roofs, gutters, down spouts and exterior building surfaces, clean or resurface paved access ways and parking areas, trim and care for trees, shrubs, grass, walks, swales, berms and other landscaping and drainage improvements, as well as to provide general cleanup, shoreline maintenance, and removal of debris which in the opinion of

the Board detracts from the overall beauty and setting of the Property. Declarant, the Association, and their respective agents and employees, shall have no liability to the Owner or any occupant or guest for trespass, or damage or injury to property or person as the result of actions taken hereunder unless caused by gross negligence or intentional wrongdoing.

4.3 Assessment of Cost. The cost of any work performed by or at the request of the Association pursuant to Section 4.2 shall be assessed as an Individual Assessment against the Owner of the Parcel upon which such work is done, as set forth in Section 6.8 herein.

4.4 Access. In order to perform the repairs or maintenance authorized by this Article, the agents or employees of the Association may enter upon any Parcel and the exterior of any improvement thereon during reasonable hours on any day except Sundays and holidays, except that in an emergency situation, as determined by the Board, entry may be made at any time.

## ARTICLE V

### PROPERTY RIGHTS IN THE COMMON PROPERTIES

5.1 Easements. The Association and each Owner (including Declarant) shall have a non-exclusive right and easement of use and enjoyment in and to the Common Property. Said right and easement shall be appurtenant to and pass with the title to each Parcel, and shall include, without limitation, the following:

A. Right of way for ingress and egress by vehicles and on foot through and across any streets, roads or walks in the Common Property for all lawful purposes; and

B. Rights and easements to drain across the Surface Water Management System in accordance with the Permit and District rules; and

C. Rights to connect to, maintain and make use of utility lines, wires, pipes, conduits, telephone lines and equipment, sewers and drainage lines which may from time to time be in or along areas of the Common Property, but only in accordance with applicable laws and regulations and the requirements of the applicable entities which regulate said utilities; and

D. Rights and easement to use and enjoy the Common Property for any purpose not inconsistent with this Declaration, the Articles, the Bylaws, the rules and regulations of the Association, or law.

5.2 Easement for Access and Drainage. The Association shall have a perpetual non-exclusive easement over all areas of the Surface Water 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 parcel which is a part of the Surface Water Management System, at a reasonable time and in a reasonable manner, to operate, maintain or repair the Surface Water Management System as required by the Permit, subject to any maintenance responsibilities assumed by any governmental authority. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire Surface Water Management System. No person shall alter the drainage flow of the Surface Water Management System, including buffer areas or swales, without the prior written approval of the District.

5.3 Title to Common Property. Declarant shall convey to the Association fee simple title in and to the Common Property free and clear of all encumbrances except taxes, applicable subdivision plats, this Declaration and any other restrictions and easements recorded in the public records no later than the occurrence of Turnover, as set forth herein. Once conveyed to the Association, the Common Property may not be mortgaged or further conveyed without the consent of at least two thirds (2/3) of the Owners (excluding Declarant).

5.4 Extent of Easements. The rights and easements created in this ARTICLE V shall be governed by the following:

A. Subject to any rights of Declarant and the Owners set forth in this Declaration, the Association shall be responsible for the exclusive management, control and maintenance of the Common Property.

B. Declarant, until conveyance of title to the Association, and the Association thereafter, may reserve to itself or to grant or dedicate (subject to the terms of ARTICLE XVIII) to Declarant, any Owner, any governmental agencies and/or to any utility companies, easements and rights of way, over, under or through the Common Property for installation, use, maintenance and inspection of lines and appurtenances for public or private utilities, surface water drainage improvements and areas, or completion of the development. No improvement or material may be placed upon any such easement which may damage or interfere with the installation or maintenance of utilities or the easement area or that may alter or impede the direction or flow of drainage.

C. Declarant's rights reserved in this Declaration.

D. Matters shown on any plat(s) of the Property.

5.5 Additional Easements over Common Property. Declarant hereby creates, reserves and declares to exist the following licenses, rights, privileges and easements over, under and through the Common Property subject at all times to the terms and conditions of the Permit and subject to receiving prior written approval of the District as to any activities that may affect or may occur on or within the Surface Water Management System, including any upland buffers: (i) rights of way and easements to install, maintain and use electric, lighting, telecommunications, telephone, gas, water, sewer, drainage and utility poles, wires, cables, conduits, fixtures, pipes, meters, equipment, facilities, ponds, swales, berms or ditches, and other equipment and improvements necessary or convenient for the completion, marketing, use and enjoyment of the Property, (ii) the right to cut trees, bushes or shrubbery, make any gradings of the soil, and take any similar action reasonably necessary to provide economical and safe utility and drainage installation or to maintain reasonable standards of health, convenience, safety and appearance, (iii) the right to locate thereon wells, pumping stations and irrigation systems and lines, (iv) easement of ingress and egress for purposes of development, construction and marketing, and (v) such other rights as may be reasonably necessary to complete in an orderly and economic manner the development and sale of the Property including, without limitation, the maintenance of temporary signage and trailers used in such development and sales efforts; provided, however, that said reservation and right shall not be considered an obligation of Declarant to provide or maintain any such easement, utility, equipment or service. Declarant also reserves the right to connect with and make use of the utility lines and drainage improvements which may from time to time be in or along the streets and roads, or within the Common Property or platted easements. The easements and rights of way herein reserved shall continue in existence in favor of Declarant after conveyance of the Common Property to the Association or dedication to the County until such time as Declarant has sold all Parcels in the Property and in any lands separately developed by Declarant and located adjacent to the Property.

5.6 Delegation. Any Owner (including Declarant) may grant the benefit of any easement, right or privilege to tenants and guests for the duration of their tenancies or visits, but same shall not be construed to create any rights in the general public.

## ARTICLE VI

### ASSESSMENTS

6.1 Purpose. The assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the Owners, to perform the Association's duties and to exercise the powers conferred on it, to improve, operate, insure and maintain the Common Property and the Areas of Common Responsibility, and to pursue any other purpose deemed desirable or appropriate by the Board, including without limitation, any one or more of the following: (a) payment of Association operating expenses; (b) lighting, irrigation, maintenance, improvement and beautification of streets and easement areas, and acquisition, maintenance, repair and replacement of community identification signs and traffic

control devices, and control and regulation of traffic in the Property; (c) payment, contest or compromise of real and personal property taxes and assessments separately levied upon or assessed against the Association or the Common Property; (d) operation, management, insurance, replacement, maintenance, repair, beautification and improvement of the Common Property, Areas of Common Responsibility, and easement areas benefiting the Association; (e) repayment of any deficits previously incurred by the Association; (f) funding of reserves for future Common Expenses, (g) procurement and maintenance of insurance, (h) employment of an accountant, attorneys and other professionals to represent or advise the Association; (i) operation, maintenance and repair of the Surface Water Management System for the Property in accordance with the terms of this Declaration and the requirements of the District; (j) monitoring of protected wetlands as required by the District; and (k) doing anything necessary or desirable in the judgment of the Board to keep the Property neat and attractive, to preserve or enhance the value thereof, to eliminate fire, health or safety hazards, or otherwise to benefit the Owners.

6.2 Assessments. There are hereby created three types of Assessments: (a) Base Assessments to fund expenses for the benefit of all Members of the Association, (b) Special Assessments, and (c) Individual Assessments. Unless specifically provided otherwise in this Declaration, Base Assessments shall be levied equally on all Parcels as otherwise provided in Section 6.6 below. Special Assessments shall be levied as provided in Section 6.7 below, and Individual Assessments shall be levied as set forth in Section 6.8 below. Each Owner, by acceptance of his or her deed, is deemed to covenant and agree to pay these Assessments.

6.3 Certificate. Upon request, the Association shall furnish to any Owner a certificate setting forth whether required assessments have been paid. Such certificate shall be conclusive evidence in favor of the third parties relying thereon of the payment of any assessment therein stated to have been paid. The Association may require the advance payment of a processing fee not to exceed fifty (\$50.00) Dollars for the issuance of such certificate.

6.4 Payment of Assessments. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual Base Assessment for delinquent Members.

6.5 Exempt Property. The following property shall be exempt from the assessments, charges and liens created herein: (1) Common Property; (2) lands owned by Declarant; (3) lands dedicated to the County or other governmental authority, any utility company, or the public. No Owner, with the exception of Declarant, may avoid assessment obligations by virtue of non-use or abandonment of the Common Property or their Parcel. No diminution, abatement, or offset of any Assessment shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration, for the inconvenience or discomfort arising from repairs or improvements undertaken by the Association, or arising as a result of any action undertaken by the Association in order to comply with any law or ordinance, or any order or directive of the City or County, the District, the State of Florida, or any other authority having jurisdiction over the Property.

6.6 Computation of Base Assessments. At least sixty (60) days before the beginning of the fiscal year, the Board shall prepare a budget to determine the estimated costs of operating the Association during the upcoming year ("Operating Budget"). The Board shall cause a copy of the Operating Budget and the amount of assessments to be levied against each Parcel for the following year to be delivered to each Owner at least thirty (30) days prior to the end of the current fiscal year. The Operating Budget and the assessment shall become effective unless disapproved at a meeting of the Members, by a vote of the Members, or their alternates representing at least a majority of the total Class "A" vote of the Association and the vote of the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in the Bylaws. Notwithstanding the foregoing, in the event the proposed budget is disapproved or the Board fails for any reason to determine the Operating Budget for any year, then and until such time as a budget shall have been determined as provided herein, the Operating Budget in effect shall continue for the upcoming year.

The budget may include, without limitation, the following listed line items:

A. All expenses necessary to maintain the Common Property in accordance with the requirements of this Declaration, including, without limitation, all operational items such as overhead and indirect costs, costs incurred or required for maintenance, repair, and operation of the Common Property and Areas of Common Responsibility, including all costs associated with the required maintenance of the Surface Water Management System.

B. All expenses necessary to monitor and maintain the Conservation Areas in accordance with the requirements of this Declaration and the Environmental Resource Permit.

C. The premiums on any policy or policies of insurance required by law or under this Declaration, together with the costs of such other policies of insurance, as the Board, with the consent of the Owners at any meeting thereof, shall determine to be in the best interest of the Association, as well as all expenses necessary to retain a lending institution in the County, having a trust department to act as "Insurance Trustee", who may be named as an additional loss payee under such policies. The functions of the Insurance Trustee shall include holding all original policies purchased by the Association, distributing proceeds of such insurance, assisting in the reconstruction of improvements paid for from insurance proceeds, and performing such other functions as shall be agreed upon.

D. The costs of operating the Association, including any secretaries, bookkeepers and other employees necessary to carry out the obligations and covenants of the Association under the Declaration, including the collection of Assessments. In addition, the Association may retain a managing company or contractors to assist in the operation of the Association and to perform or assist in the performance of certain obligations of the Association hereunder. The fees or costs of any management company or contractor so retained shall be deemed an Association expense to be paid through Assessments.

E. All taxes levied or assessed upon the Common Property by any and all taxing authorities, including all taxes, charges and assessments, impositions and liens for public improvements, special charges and assessments

F. The costs to the Association to indemnify and save harmless the Declarant from and against any and all claims, suits, actions, damages and/or causes of action arising from any personal injury, loss of life and/or damage to property in or about the Common Property, and from and against all costs, counsel fees, expenses, liabilities occurring in and about such claim, the investigation thereof, or the defense at any level of any action or proceeding brought in connection therewith. Included in the foregoing provisions are any expenses incurred by the Declarant in connection with any action or proceeding brought for the purposes of enforcing the rights of the Declarant or Association thereunder, or for the purpose of compelling the specific enforcement of the provisions, conditions, covenants and restrictions contained in the Declaration.

G. The costs to establish an adequate reserve fund or to provide adequate security for replacement and/or capital refurbishment of the Common Property and the payment of other common expenses (the "Capital Contributions") in the amounts determined proper and sufficient by the Board. Each Owner acknowledges and understands that Capital Contributions are the exclusive property of the Association, and that no owner shall have any interest, claim, or right to any such Capital Contributions. The Association shall be responsible for maintaining the Capital Contributions in a separate reserve account and to use such funds only for capital costs and expenses as aforesaid.

#### 6.7 Special Assessments.

A. The Association may levy a Special Assessment or Special Assessments for the purpose of defraying the cost of any construction, repair or replacement of any improvements on the Common Property or Areas of Common Responsibility, or on any easement benefiting the Association, or for any other purpose deemed desirable or appropriate by the Board, provided, such Assessment shall have the affirmative vote or written consent of Members or their alternates representing at least fifty-one percent

(51%) of the Class "A" vote in the Association, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines

B. The Association may levy a Special Assessment to obtain all sums necessary to repair, replace, construct or reconstruct any buildings or improvements constructed by the Declarant or the Association in or on the Property, damaged by any casualty, to the extent insurance proceeds are insufficient for repair. Any difference between the amount of insurance proceeds received on behalf of the Association with respect to repair and the actual cost of the repair shall be a Common Expense for which the Association shall levy a Special Assessment against all Owners to obtain the funds necessary to pay for such repair. The Association shall deposit these funds together with all insurance proceeds, with the Insurance Trustee, until such time as they are paid to cover the cost of such repairs.

6.8 Individual Assessments. The Association may also levy an Individual Assessment against any Member/Owner in order to cover costs incurred by the Association due to that Owner's failure to maintain its Parcel or Dwelling pursuant to the standards set forth in this Declaration, or to reimburse the Association for loss or damage to the Association or to any Common Property or Area of Common Responsibility or easement area caused by that Owner or his lessee, agent, contractor or guest, not covered by insurance, or for any other purpose expressly permitted by this Declaration.

6.9 Date of Commencement of Base Assessments. The Base Assessments provided for herein shall commence as to each Parcel at the time of conveyance of the Parcel by the Declarant to the Owner. Assessments shall be due and payable in a manner and on such schedule as determined by the Board of Directors. At the closing of the sale of each Parcel in the Property by Declarant to the first purchaser from Declarant, the purchaser shall pay to the Association the entire annual assessment for the calendar year of closing, prorated on a per diem basis from the date of closing through the end of that calendar year. Thereafter, annual assessments shall be due and payable as otherwise set forth in this Article.

6.10 Subordination. The assessment lien shall be subordinate to the lien of any Mortgage. Any mortgagee which obtains title to a Parcel by foreclosure of a mortgage, or by voluntary conveyance in lieu of such foreclosure, shall not be liable for the uncollected assessments or interest, late charges or collection costs pertaining to such Parcel or chargeable to the former Owner thereof, which became due prior to the acquisition of title by said mortgagee. Such unpaid amounts shall be deemed a Common Expense collectible from all Owners, including the acquiring mortgagee, on a pro rata basis. Any such transfer to or by a mortgagee shall not relieve the transferee of responsibility nor the Parcel from the lien for assessments thereafter falling due.

6.11 Funding by Declarant. Declarant shall never be obligated to pay any individual assessment. Prior to the Turnover Date, this provision shall not be amended without the consent of the Declarant.

## ARTICLE VII

### ESTABLISHMENT AND ENFORCEMENT OF LIENS

7.1 Lien and Personal Obligation Nonpayment. Declarant, for each Parcel owned by it in the Property, and each Owner other than Declarant by acceptance of title to any Parcel, whether or not it shall be so expressed in any deed or other conveyance, covenants and agrees to pay to the Association annual assessments or charges and special assessments. Each Owner other than Declarant covenants and agrees to pay any individual assessments. Said assessments shall be fixed, established and assessed as herein provided. Assessments, together with such interest and late charges as shall be imposed by the Board at its discretion, and the cost of collection thereof, including without limitation court costs and reasonable attorneys' and paralegals' fees before trial, at trial and on appeal, shall be a charge and a continuing lien upon the Parcel against which such assessment is made, and upon any Dwelling located on said Parcel, from and after the date on which such assessment is due. Each assessment, together with said interest, late charges, costs and fees, shall also be the personal obligation of each

person who was an Owner of the Parcel at the time the assessment fell due. If any assessment or installment thereon is not paid when due, then such assessment shall be delinquent and the delinquent assessment, together with interest, late charges, and collection costs, shall be secured by a continuing lien on the Parcel as to which the assessment accrued, and upon any Dwelling located thereon. Such lien shall be prior to all other liens hereinafter created except taxes or assessments levied by governmental authority, and except as to the lien of any mortgage. The lien shall be prior to and superior in dignity to homestead status. The lien shall bind the Parcel and any Dwelling located thereon in the hands of the then Owner and of each subsequent Owner. The personal obligation of the Owner to pay such delinquent assessment shall remain that Owner's personal obligation for the statutory limitations period and personal liability shall not pass to successors in title unless expressly assumed by them.

If the delinquent assessment or installment thereon is not paid within thirty (30) days after the due date, same shall bear interest from the date due at the highest lawful rate in Florida, or at such lesser rate as may be determined by the Board and uniformly applied, and the Association may bring an action for collection against the Owner personally obligated to pay the same and to foreclose the lien against the Parcel and any Dwelling located thereon by judicial foreclosure in the same manner as foreclosure of a mortgage, and there shall be added to the amount of such assessment the aforesaid interest, late charges, collection costs and attorneys' and paralegals' fees, and fees and collection costs shall be recoverable whether or not suit be brought. The Owner shall also be required to pay the Association any assessments against the Parcel which become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale and to own sell, lease, encumber, use and otherwise deal with the Parcel and any Dwelling thereon as owner thereof.

7.2 Effective Date of Lien. Said lien shall be effective only from and after the time of recording of a written, acknowledged statement by the Association which sets forth the amount due to the Association, in the public records of Highland County, Florida. Upon recording, the Association shall have a perfected lien for unpaid Assessments prior to and superior to all other liens, except for the following: (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any Mortgage of record made in good faith and for value. Upon full payment of all sums secured by the Association lien and costs and fees accrued in connection therewith, the Association shall execute a Satisfaction of Lien in proper forms which shall then be recorded in the public records of Highland County, Florida.

7.3 Rights of Mortgagees. When any Mortgagee obtains title to a Parcel as a result of a foreclosure of Mortgage, or deed (or assignment) is given in lieu of foreclosure, such acquirer of title, their successors and assigns, shall not be liable for the Assessments pertaining to such Parcel or chargeable to the former owner which became due prior to the acquisition of title as a result of the foreclosure or deed (or assignment) in lieu of foreclosure, unless such Assessments are secured by a Claim of Lien and recorded prior to the recording of the Mortgage. Any unpaid Assessments which are subordinate or junior to any such Mortgage shall be deemed to be Assessments collectable from all Parcels.

7.4 Remedies. In the event any Owner shall fail to pay his or her Assessments within fifteen (15) days after the same becomes due, the Association, through its Board, may exercise any of the following remedies:

A. To accelerate the entire amount of any Assessments for the remainder of the year notwithstanding any provisions for the payment thereof in installments.

B. To advance funds on behalf of the Owner. The funds so advanced, including reasonable attorneys' fees and expenses, and the cost to borrow funds, if necessary, incurred in connection with such advance, together with interest at the highest rate allowable by law, may thereupon be collected or enforced by the Association in the same manner as any other Assessment.

C. To file an action in equity to foreclose its lien at any time after the effective date thereof. The lien may be foreclosed by an action in the name of the Association in a like manner as the foreclosure of a mortgage on real property.

D. To file an action at law to collect said Assessments, together with interest at the highest rate allowable by law, costs and attorneys' fees, without thereby waiving any lien rights or rights of foreclosure by the Association.

The foregoing remedies shall be in addition to any rights or remedies now or hereafter provided by law or equity, and all rights and remedies shall be cumulative and not exclusive of each other.

7.5 Rights upon Foreclosure. The Association, acting on behalf of the Owners, shall have the right to bid on and purchase any Parcel at any foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which the Parcel is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no Assessment shall be assessed or levied on it; and (c) each other Parcel shall be charged, in addition to its usual Assessment, its equal pro rata share of the Assessment that would have been charged such Parcel had it not been acquired by the Association as a result of foreclosure. Any action to recover a money judgment for unpaid Common Expenses, together with all charges and expenses incurred in connection therewith, including attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

## ARTICLE VIII

### INSURANCE

The Board may obtain fidelity bond coverage in its discretion. In addition, the Board may obtain insurance for insurable improvements on the Common Property, any Area of Common Responsibility, or on any easement benefiting the Owners or the Association, public liability policies covering the Association and Members for damage or injury caused by the negligence of the Association or any of its Members, guests or agents, directors' and officers' liability insurance, and any other types of insurance coverage as the Board may deem appropriate, with such insureds, deductibles provisions and coverage types and amounts as shall be determined by the Board. Premiums for insurance so obtained shall be a Common Expense. The Association may self insure against any risk.

## ARTICLE IX

### ARCHITECTURAL CONTROL

9.1 Architectural Control Committee. All Parcels and Dwellings in the Property are subject to architectural review in accordance with this Article, and the Architectural Control Standards, which shall be adopted and revised from time to time by the Architectural Control Committee (the "ACC"), in order to provide planning, construction, and development criteria. The Architectural Control Standards shall be written and made available to all Owners or prospective Owners, and may include any matters considered appropriate by the ACC not inconsistent with this Declaration.

No site work, landscaping, utility extension, drainage improvement, paving, driveway, swimming pool, pool enclosure, building, fence, wall, sidewalk, or any other physical or structural improvement, or change or alteration to the exterior of any existing structure or improvement, or to any existing landscaping, shall be commenced, erected or maintained until the plans showing such details as the size, design, shape, finished grade elevation, height, materials and color of the same, together with a landscape plan and a plot plan showing the location relative to boundaries and adjacent improvements of such proposed improvements or changes, have been approved in writing by the ACC. All such improvements must further conform to the Architectural Control Standards and no plans shall be approved by the ACC if they are not in conformity with same. All improvements, changes and alterations shall also comply with all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees. Until such time as any improvements, changes and/or alterations have been submitted to and approved by the ACC, no Owner (and/or designee thereof) shall make application for a building permit from the applicable governmental agency. Nothing herein shall limit the right of an Owner to finish or alter the interior of that Owner's Dwelling as that Owner desires.

It shall be the responsibility of each Owner at the time of construction of the Dwelling on that Owner's Parcel to comply with the approved construction plans for the Surface Water Management System on file with the District pursuant to Chapter 40C-4, F.A.C.

The Architectural Control Standards adopted by the ACC shall incorporate and encourage the use of measures to maximize the conservation of energy through design, siting and orientation of buildings, the use of sunlight, wind and shade of natural vegetation to cool, ventilate and light development, and the installation of energy efficient heating and cooling equipment and building materials.

## 9.2 General Provisions.

A. So long as Declarant owns any Parcels subject to this Declaration, Declarant shall be entitled to appoint all members of the ACC. Thereafter, the membership of the ACC shall be determined by the Board. The ACC shall consist of no less than three (3) members, none of whom shall be required to be Owners or occupants of the Property. No member of the ACC shall be entitled to compensation for services performed. Members of the ACC (other than those appointed or designated by the Declarant) may be removed by the Board of Directors at any time without cause. Members of the ACC appointed or designated by the Declarant may only be removed by the Declarant.

B. The address of the ACC shall be the principal office of the Association as designated by the Board. Such address shall be the location for the submission of plans and specifications and the location where the architectural standards, if any, shall be kept.

C. Application for architectural change shall be made by the applying Owner on forms prepared by the ACC. The completed application together with all plans and specifications as well as any damage deposit fee shall be submitted to the ACC. Decisions of the ACC shall be forwarded in writing to the applying Owner.

9.3 Approvals. Decisions of the ACC shall be by majority action. Unless waived by the ACC, all plans shall be prepared by an architect or engineer, said person to be employed by and at the expense of the Owner. If for any reason, including purely aesthetic reasons, the ACC should determine that a proposed improvement or alteration is not consistent with the Architectural Control Standards, or Declarant's development plan, or in the best interest of the Association and its Members, such improvement or alteration shall not be made. Approval of plans may be withheld not only because of noncompliance with any of the specific conditions, covenants and restrictions contained in this Declaration, but also by virtue of the dissatisfaction of the ACC with the location of the structure on the Parcel, the elevation, color scheme, finish, design, proportions, architecture, drainage plan, shape, height, style and appropriateness of the proposed structures or altered structures, the materials used therein, the planting, landscaping, size, height or location of vegetation on the Parcel, or because of its reasonable dissatisfaction with any other matter or thing which, in the judgment of the ACC, will render the proposed improvement or alteration inharmonious with the general development plan or the Architectural Control Standards. Two (2) sets of plans, specifications and plot plans shall be submitted to the ACC by the Owner prior to applying for a building permit. Submittals and re-submittals of plans shall be approved or disapproved within thirty (30) days after receipt by the ACC. The ACC approval or disapproval shall be written and shall be accompanied by one (1) copy of the plans, etc., to be returned to the Owner. Whenever the ACC disapproves plans, the ACC shall specify the reason or reasons for such disapproval. In the event plans and specifications submitted to the ACC are not approved, the party or parties making such submission may appeal the decision of the ACC by submitting a written appeal to the Board not more than thirty (30) days following the final decision of the ACC. Thereafter, the Board shall have forty-five (45) days to review the appeal and render its decision. The Board may reverse or modify the decision of the ACC by a majority vote of the Board. The failure of the Board to render a decision within the forty-five (45) day period shall be deemed a decision in favor of the appellant. Unless specifically excepted by the ACC, all approved improvements shall be completed within twelve (12) months from the date of commencement of said improvements.

9.4 Deposits. Construction requiring the approval of the ACC shall not commence unless and until a refundable Debris Deposit of \$1,000.00 and a Plan and Specification Review and Inspection Fee deposit of \$1,500.00 has been delivered to the Association. The debris deposit may be used to eliminate any debris left on the Property or to repair any damage to the Common Property caused by said construction. The Plan and Specification Review and Inspection Fee deposit shall be used for the payment of any professionals engaged by the ACC to assist in the review of the plans and specifications and inspections. In the event the cost of debris removal and/or repairs of any damage to the Common Property exceeds \$1,000.00, or the Plan and Specification Review and Inspection Fee exceeds \$1,500.00, the Owner shall pay the difference to the Association within ten (10) days after written notice by the Association. Any excess debris deposit or Plan and Specification Review and Inspection Fee deposit shall be returned to the Owner upon completion of the repairs or review. The foregoing notwithstanding, the Plan and Specification Review and Inspection Fee shall not exceed \$2,500.00.

9.5 Rights of the City. The City shall have the right, but not the obligation, to enforce by proceedings at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now, or hereafter imposed by the provisions of the Declaration, or any amendment thereto, including the right to prevent the violation as to any such provisions, the right to recover damages for any such violations, and including the right to impose and enforce assessments on behalf of the Association. No amendment to this Declaration shall impair, restrict or prove detrimental to the rights of the City as provided within this Declaration, and as subsequently amended without the joinder and consent of an authorized officer, representative or agent of the City.

9.6 Variances. The ACC may authorize variances from compliance with any of the provisions of the architectural standards as set forth in the Architectural Control Standards, when factors such as topography, natural obstructions, hardship, aesthetics, or environmental considerations require, but only in accordance with adopted Rules and Regulations and only when under unique circumstances. For the purposes of this paragraph, the inability to obtain approval of any governmental agency; the issuance of any permit; or the terms of any financing shall not be considered a hardship warranting a variance. The granting of a variance shall not operate as a waiver of any of the terms and conditions of this Declaration as amended or supplemented from time to time, nor shall it affect the Owner's obligation to comply with all applicable governmental, regulatory, and administrative laws, ordinances, rules, regulations, orders, and decrees. Notwithstanding anything to the contrary contained in the foregoing, no variance authorized hereunder shall be effective unless approved by the Board in writing.

9.7 Violations. The construction and/or improvements must be performed strictly in accordance with the plans as approved. If after plans have been approved, the improvements are altered, erected, or maintained upon the Parcel other than as approved, same shall be deemed to have been undertaken without ACC approval. After one (1) year from completion of any improvement, addition or alteration, said improvement shall, in favor of purchasers and encumbrances in good faith and for value, be deemed to comply with the provisions hereof unless a notice of such noncompliance executed by any member of the ACC shall appear in the public records of the County, or legal proceedings shall have been instituted to enjoin the noncompliance or to enforce compliance with these provisions.

9.8 Release of Liability. None of Declarant, the ACC, the Board or the Association, or any agent or employee thereof, shall be liable to anyone submitting plans for approval or to any Owner, occupant or guest of the Property by reason of or in connection with approval or disapproval of any plans, or for any defect in any plans submitted, revised or approved in accordance with the requirements of the ACC, or for any structural or other defect in any work done according to such plans. Approval of plans, or any other approvals, variances or consents, are given solely to protect the aesthetics of the Property in the judgment of the ACC and shall not be deemed a warranty, representation or covenant that any action taken in reliance thereon complies with applicable laws, codes, rules or regulations, nor shall ACC approval be deemed approval of any plan or design from the standpoint of structural safety or conformity with building or other codes. Every person who submits plans for approval agrees, by submission of such plans, and every Owner or occupant of any Parcel agrees, by acquiring title thereto or an interest therein, that it will not bring any action, proceeding or suit to recover any such damages and shall be deemed to

have automatically agreed to hold harmless and indemnify the aforesaid parties from and for any loss, claim or damages connected with the aforesaid aspects of the improvements or alterations.

9.9 Enforcement. Declarant and the Association shall have standing and authority on behalf of the Association to enforce in courts of competent jurisdiction the planning criteria as set forth in the Architectural Control Standards and the decisions of the ACC. Should Declarant or the Association be required to enforce the provisions hereof by legal action, the reasonable attorneys' fees and costs incurred, whether or not judicial proceedings are involved, including the attorneys' fees and costs incurred on appeal from judicial proceedings, shall be collectible from the violating Owner. Should any Owner fail to comply with the requirements hereof after thirty (30) days' written notice, Declarant and the Association shall have the right but not the obligation to enter upon the Owner's property, make such corrections or modifications as are necessary, or remove anything in violation of the provisions hereof or the planning criteria as set forth in the Architectural Control Standards, and charge the cost thereof to the Owner as an individual assessment. Declarant and the Association, or their agents or employees, shall not be liable to the Owner or to any occupant or invitee of any Parcel for any trespass or damages or injury to property or person for any action taken hereunder unless caused by gross negligence or intentional wrongdoing.

9.10 Exemption. Declarant shall be exempt from the Architectural Control provisions of this ARTICLE IX. Declarant shall be entitled to construct or install any new improvement, and to alter or change any existing improvement, without submitting plans to or obtaining the approval of the ACC.

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

9.12 ACC Rules. The ACC shall adopt reasonable rules of procedure and planning, construction, and development criteria, which shall be part of the Architectural Control Standards governing the submission and review of any matter to be brought before it and the inspection and final approval of any completed work done pursuant to an approval of the ACC. Such rules shall be (i) subject to the prior approval of the Board of Directors, (ii) consistent with the covenants and restrictions set forth in this Declaration and (iii) published or otherwise made available to all Owners and their contractors, subcontractors and other appropriate designees. All rules of the ACC shall be adopted and/or amended by a majority vote thereof.

## ARTICLE X

### USE RESTRICTIONS

The Property shall be subject to the following covenants and restrictions which shall bind each Owner and Parcel:

10.1 Residential Uses. The Parcels shall be used only for bona fide residential and related uses, as set forth in the zoning provisions of the Code of Ordinances, City of Sebring, Florida.

10.2 Use Restrictions. The Board shall have the authority to make and enforce standards and restrictions governing the use of the Property in addition to those contained herein. Such regulations and use restrictions shall be binding upon all Owners, occupants, and all parties entering upon the Property, until such time that such regulations and use restrictions are overruled, canceled, or modified pursuant to a regular or special meeting of the Association by Members representing a majority of the Class "A" votes of the Association, and by the vote of the Class "B" Member, so long as such membership shall exist. The following are the initial use restrictions:

10.3 Signs. No signs of any kind shall be displayed to the public view on any parcel, except one (1) sign of not more than five hundred (500) square inches identifying the owners of the parcel. Signs of not more than five (5) square feet may be used by a builder to advertise and identify the builder during the

construction phase of a dwelling for a period of not more than one (1) year from the commencement of construction. All signs must be properly set on a post and not placed on trees or structures. Notwithstanding the foregoing, Declarant specifically reserves the right to itself, its successors, nominees and assigns to place and maintain signs in connection with identification or information anywhere on the property, including, but not limited to "For Sale" signs, display signs, directional signs, and identification signs of common areas. The size of signs placed by the Declarant or its successors, nominees or assigns may be larger than stated herein.

10.4 Vehicles/Parking and Garages. No motorcycle, truck, trailer, boat, van in excess of 17 feet in length, camper, motor home, bus, commercial vehicle of any type (i.e., any vehicle which has any exterior lettering or logo, or has tools or equipment), non-passenger van (i.e. any van which does not have a rear seat and side windows), or similar vehicle shall be parked on any Parcel or any other part of the Property unless parked inside a garage or otherwise hidden from the view of other Parcels and the platted paths and roads. No vehicles, except for commercial vehicles, vans or trucks delivering goods or furnishing services during daylight hours, shall be parked upon any portions of the Common Property. The Association shall have the right to remove any vehicle in violation of this provision and the expense of doing so, including attorney's fees, if any, shall be borne by the vehicle Owner. No garage, trailer, or other vehicle shall be used as a living area.

10.5 Minimum Residential Sizes/Requirements. The following shall apply to all Residential Dwellings located on any Parcels:

(i) If constructed, no Residential Dwelling shall contain less than twenty-six hundred square feet (2,600 sq. ft.) of air conditioned living area, excluding attached garages (but including living space above attached garages), green houses, screened porches, covered patios or entry ways and outbuildings. Any two (2) story Residential Dwelling shall contain a minimum of two thousand square feet (2,000 sq. ft.) of air conditioned living area on the ground or first floor. All Residential Dwellings shall have at least a two (2) car garage of a minimum four hundred and forty square feet (440 sq. ft.).

(ii) The Residential Dwelling shall be of a design that would be considered standard style in Florida and not radical in nature. No mobile homes, doublewides, modular units, or any other type of prefabricated packaged homes shall be allowed. No "earth homes," as they are commonly known, shall be erected on any Parcel. The outside finish of the primary residence shall be wood, brick, stone, stucco, or any other material normally used in the construction of homes in Florida. Accessory structures, if permitted by City zoning regulations, shall be permitted subject to approval by the ACC as to use, location and architectural design. Travel trailer and recreational vehicles may be garaged or kept in the rear of a residence, but shall not be used for living purposes at anytime.

(iii) Residential sizes and other standards established by this Declaration or by the ACC may be more restrictive, but may not be less restrictive than applicable residential standards established by the City. In each and every instance in which a more restrictive standard is established by this Declaration or by the ACC, the more restrictive standard shall apply. Whenever, the Declaration or the ACC fails to establish a standard, then, in such event, the standards established by the City shall apply.

(iv) The exterior of a Residential Dwelling under construction shall be complete within one year from the date of commencement of construction thereof.

10.6 Temporary Structures/Mobile Homes. No manufactured housing, mobile homes, trailers, or similar structures, nor any structure of a temporary nature shall be placed upon any Parcel or anywhere within the Property, at any time; provided, however, that nothing contained herein shall preclude the Declarant from placing any temporary shelter upon the Property until such time that the Declarant no longer owns any Parcel.

10.7 Carports. No carports or similar shelters shall be constructed upon any Parcel.

10.8 Setbacks. No improvements, including, without limitation, structures, pools, patios and screen enclosures, but excluding fences, shall be constructed on any Parcel except in compliance with minimum building Setback requirements established by the ACC and set forth in this Declaration. Setbacks may be more restrictive, but may not be less restrictive, than applicable setbacks established by the City. The initial minimum building Setbacks are as follows:

Front	=	25 feet
Rear	=	25 feet
Side	=	25 feet

Modifications of the minimum building Setbacks established by the ACC herein may only be made by, and shall only be effective upon, the recording of an Amendment to this Declaration.

10.9 Firearms. The discharge of firearms and weapons within the properties is prohibited.

10.10 Mining Operations/Excavating. No mining, quarrying, drilling, or other means of extracting minerals of any kind whatsoever shall be permitted upon any Parcel or anywhere within the Property; provided, however, nothing contained in the foregoing shall be construed to prohibit excavation for the purpose of obtaining fill for the construction of Parcel improvements permitted by applicable laws, regulations, and this Declaration.

10.11 Nuisance or Illegal Use. No Owner, their family members, guests, invitees, licensees, employees, or agents, shall make use of any Parcel in a manner which violates any laws, ordinances, or regulations of any governmental authority having jurisdiction over the Property, or which constitutes an ultra hazardous activity, or which results in any noxious or offensive sight, activity, noise, or odor, or which is or may become a nuisance, annoyance, or source of embarrassment to other Owners.

10.12 Unightly Conditions. All exotic and/or nuisance vegetation, rubbish, debris, junk vehicles, or unsightly materials or objects of any kind shall be regularly removed from the Parcels, and shall not be allowed to accumulate thereon. All refuse containers (except on scheduled trash pick up days), all machinery and equipment, and other similar items of personal property shall be obscured from view or adjoining streets, Parcels or Common Areas. All Parcels, including improvements, shall be kept in a clean and sanitary condition and no rubbish, refuse, or garbage shall be allowed to accumulate, or any fire hazard allowed to exist. All improvements shall be rebuilt, repaired and restored as approved by the ACC in the event damage by fire, windstorm, hurricane or other casualty. In the event an Owner fails to maintain the Parcel or improvements as required, for a period of at least thirty (30) days following written notice from the Association, the Association shall have the right, but not the obligation, in its sole discretion, to clear any rubbish, refuse or unsightly debris, from any such Parcel at the Owner's sole expense. All expenses related to the foregoing, together with interest thereon at the maximum rate permitted by law, shall be charged to the Owner and shall become a lien on the Parcel, which lien shall be effective, have priority and be enforced pursuant to the procedures set forth in this Declaration.

10.13 Pools, Tennis Courts, and Other Court Games or Structures. No swimming pools, tennis, basketball, or other courts games shall be constructed in front of the rear line of any Residential Dwelling, nor within any Setback or easement. No above-ground pools shall be erected, constructed or installed on any Parcel.

10.14 Artificial Vegetation, Exterior Sculptures and Similar Items. No artificial vegetation, exterior sculpture, fountains, flags and similar items shall be permitted on any Parcel without the prior written approval of the ACC.

10.15 Energy Conservation Equipment. No solar heating systems, solar energy collector panels and attendant hardware, or other energy conservation equipment shall be constructed or installed unless it is an integral and harmonious part of the architectural design of mechanical equipment and shall not project

more than one and one half (1.5) feet above the surface of the roof of a Parcel. All solar systems and other energy conservation equipment must remain hidden from view of other Parcels and the platted paths and roadways. This provision is not intended to prohibit the use of solar energy devices.

10.16 Dangerous Animals. No animal(s) may be kept on any parcel, which in the judgment of the Board, results in a nuisance or is obnoxious to other Owners. For the purpose of this provision, all animals of mean or of violent temperament shall be deemed a nuisance and thereby prohibited. No animal shall be permitted in any of the Common Areas unless under the control of a leash. Each Owner agrees to indemnify the Association, and hold it harmless against any loss or liability resulting from or related to animals owned or brought upon the Owner's Parcel.

10.17 Animals. No animals other than dogs, cats, and other household pets shall be raised, bred, or kept on any Parcel. No commercial activity shall be permitted in respect to any animals, except as approved by Declarant or the Association, and as permitted by City ordinances. No pet shall be permitted to roam outside of its Parcel except on a leash. No more than three (3) dogs, three (3) cats, and three (3) of any ordinary small household pets will be permitted on a Parcel except for nursing offspring. Members are required to clean up any mess created by their pet(s) within the Property. The Association may require any pet to be immediately and permanently removed from the Property for any violation of this Section. Each Member who shall keep a pet or pets on a Parcel hereby indemnifies and holds harmless the Declarant and the Association of and in respect to any loss or liability occasioned relative to such pet or pets.

10.18 Antennas, Clothing. No exterior antennas, aerials, satellite dishes, or other apparatus for the reception or transmission of television, radio or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Property, including any Parcel, without the prior written approval of the ACC which shall not be withheld in contravention of applicable law or ordinance. No clothing, laundry or wash shall be aired or dried on any of the Parcels in the area exposed to view from any other Parcel. Drying areas will be permitted only in locations approved by the ACC, and only when concealed from view by approved screening or fencing.

10.19 Environmental Contamination. Each Owner shall at all times comply with all federal, state and local environmental laws and regulations, including but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), Public Law No. 96-510, 94 Stat. 2767, 42 USC 9601 et seq., and the Superfund Amendments and Reauthorization Act of 1986 (SARA), Public Law No. 99-499, 100 Stat. 1613, and all amendments thereto, and shall keep their Parcel(s) free of all hazardous materials, substances, wastes or other environmentally regulated substances, except as otherwise permitted by law.

10.20 Division of Parcels. Parcels shall not be further divided or separated by any Owner, and no portion less than all of any such Parcel, nor any easement, shall be conveyed or transferred by an Owner; provided, however, that this shall not prevent corrective deeds, deeds to resolve boundary disputes and other similar corrective instruments. Notwithstanding anything to the contrary contained in the foregoing, the Declarant expressly reserves the right to divide, re-plat or otherwise modify the boundary lines of any Parcel or Parcels owned by the Declarant; provided, however, that any such division, boundary line change, or re-platting shall not be in violation of applicable City land development and zoning regulations, including, without limitation, density limitations. Any division of parcels, boundary-line changes and re-platting shall not be in violation of the Environmental Resource Permit or with the phosphorous-load discharge limits set by the District.

10.21 Irrigation. No sprinkler or irrigation systems of any type which draw water from lakes, rivers, ponds, canals, ditches or other ground or surface waters within the Property shall be installed, constructed or operated by an Owner within the Property except in accordance with the terms, conditions and regulations of this Declaration and the Environmental Resource Permit, as amended from time to time, and provided that the Owner obtains the appropriate permit from the District.

10.22 Drainage, Wells and Septic Systems. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No person may obstruct, divert, or otherwise impair the flow of water through any canal, swale, retention/detention area, storm sewers or storm drains without the prior written approval of the Association and the District. Declarant hereby reserves a perpetual easement across the Property for the purpose of altering drainage and water flow as deemed appropriate in its sole and absolute discretion, subject however to the rules and regulations of the District. All construction of Parcel improvements must comply with Surface Water Management System requirements set forth herein. Individual Parcel septic systems or wells may only be constructed with the approval of the Association, and in strict compliance with local building, zoning, and health regulations.

10.23 Sight Distance. All property located at street intersections shall be landscaped so as to permit safe sight across street corners. No fence, wall, hedge, shrub, or planting shall be placed or permitted to remain where it would create a traffic or sight problem.

10.24 Hurricane Season. Each Owner who intends to be absent from his home during the hurricane season (June 1 through November 30 of each year) shall prepare his Parcel prior to departure in the following manner:

(i) Remove all furniture, potted plants and other movable objects from his yard; and

(ii) Designate a responsible person to care for his Parcel in the event (a) the National Weather Service ("NWS") issues a hurricane or tropical storm warning, and/or (b) the Parcel suffers damage, and notify the Association in writing as to the identity and phone number of such person or firm. Such person or firm shall contact the Association for permission to install temporary hurricane shutters or extend permanently installed hurricane shelters, which must be removed or retracted, as the case may be, when the threat from the immediate storm subsides.

10.25 Rules and Regulations. Reasonable rules and regulations may be promulgated by the Board, after notice and hearing, as to the use and enjoyment of the Property and shall be observed by the Owners and occupants thereof. The Board shall provide written notice to each Owner in violation of the Rules and Regulations and give the owner fifteen (15) days in which to cure the violation.

10.26 Easements Not Shown on Plat. Unless otherwise shown on the Plat, or otherwise established by the Declarant pursuant to the authority set forth in this Declaration, no portion of the Property, including, without limitation, any Parcel or Common Property, shall be used as a pedestrian or vehicular easement, roadway or otherwise used as a means of access, ingress, or egress from a Parcel to any other property either within or outside of the Property.

10.27 Gopher Tortoise Protection. Should any gopher tortoises or gopher tortoise habitat be determined to be located on any Parcel, the relocation of the gopher tortoises must be in accordance with the standards set by the Florida Fish and Wildlife Conservation Commission, the City, the County, the State of Florida and any and all federal regulations.

10.28 Environmental Resource Permit. The Owners shall at all times abide by and comply with the Environmental Resource Permit.

10.29 Gas and Diesel Engines Prohibited on Lake Ruth. In accordance with the terms of the Corps Permit, gas and diesel powered engines are prohibited on Lake Ruth. Canoes, kayaks, sailboats, windsurfers and boats with electric motors are permitted.

## ARTICLE XI

### **SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT REQUIREMENTS**

11.1 Environmental Resource Permit. The terms and requirements of this Subsection are set forth in the Permit, a copy of which is attached hereto and made a part hereof as Exhibit "E". The Permit authorizes the Declarant to construct, and the Association to operate, Highland Lakes Reserve according to the Plan and the terms of this Article.

11.2 Enforcement of Southwest Florida Water Management District Requirements. The Association is authorized to enforce these provisions by the terms of this Declaration, including, without limitation, the terms of ARTICLE XVI.

11.3 No Amendment. This Article may not be amended without the written authorization of the Southwest Florida Water Management District.

11.4 Surface Water Management System. 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 District permit. 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 District.

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 District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved in writing by the District.

Assessments shall also be used for the maintenance and repair of the surface water or stormwater management system(s) including but not limited to work within retention areas, drainage structures and drainage easements.

## ARTICLE XII

### CONSERVATION AREAS

12.1 Preservation Areas; Generally. Highland Lakes Reserve contains Conservation Areas specifically dedicated to the preservation of the Bald Eagle (*Haliaeetus leucocephalus*), the Florida scrub-jay (*Aphelocoma coerulescens*), the sand skink (*Neoseps reynoldsi*) and the bluetailed mole skink (*Eumeces egregious lividus*) (the sand skink and the bluetailed mole skink are collectively referred to as "Sand Skinks"). These Conservation Areas for wildlife habitat preservation are identified on the Plat. Highland Lakes Reserve also contains Conservation Areas specifically dedicated to wetland preservation (the wildlife and wetland Conservation Areas are collectively referred to as the "Preservation Areas"). The Conservation Areas for wetland preservation are identified in as "Wetland Areas" on the Plat. The Preservation Areas are Common Property. The Preservation Areas for wildlife preservation are to be maintained by the Association in accordance with the terms of this Article and in accordance with the Bald Eagle Management Plan (Exhibit "F") and the Scrub Habitat Management Plan (Exhibit "G"), respectively. Those wetland or upland areas that are to be preserved, restored, enhanced, or created pursuant to the U. S. Army Corps of Engineers Permit (the "Corps Permit") shall be retained and maintained in the restored, enhanced, or created condition required by the Corps Permit, and in accordance with the terms of the Corps Permit. The Preservation Areas shall be retained and maintained in their natural, vegetative, hydrologic, scenic, open, agricultural, or wooded condition to retain such areas as suitable habitat for fish, plants, or wildlife. In addition, the Plat identifies the "Primary Zone" and the "Secondary Zone" surrounding an existing Bald Eagle nest. Activity in these zones is limited as set forth in the Bald Eagle Management Plan.

12.2 Prohibited Activities in the Preservation Areas. The following activity is prohibited on the Preservation Areas:

A. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

B. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

C. Removal or destruction of trees, shrubs, or other vegetation, except as may be permitted by the Permits, and except for the removal of nuisance, exotic, or non-native vegetation in accordance with a maintenance plan approved by Grantee;

D. Planting of nuisance, exotic, or non-native plants as listed by the Exotic Pest Plant Council (EPPC), or its successor;

E. Exploration for oil or gas, and excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such a manner as to affect the surface, except as may be permitted or required by the Corps Permit;

F. Surface use except for purposes that permit the land or water area to remain in its natural condition;

G. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking, and fencing, except as permitted or required by the Permit or Corps Permit;

H. Acts or uses detrimental to such aforementioned retention and maintenance of land or water areas in their natural state;

I. Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

12.3 Association Responsible for Operation and Maintenance of Preservation Areas. The Association shall be responsible for any costs or liabilities related to the operation, upkeep, and/or maintenance of the Preservation Areas consistent with this Declaration. The Association shall be responsible for removing from the Preservation Areas any nuisance, exotic, or non-native plants as listed by the Exotic Pest Plant Council (EPPC), or its successor.

12.4 No Public Access. Neither Declarant nor the Association shall convey any right or allow access to the general public to any portion of the Preservation Areas for any purposes whatsoever.

12.5 Enforcement by U. S. Army Corps of Engineers. The terms and conditions of this Article may be enforced by the U. S. Army Corps of Engineers (the "Corps"), or its successor agencies, in an action at law or equity against any person(s) or other entity/entities violating or attempting to violate them. In furtherance of this right, upon reasonable notice to the Association, the Corps may enter the Preservation Areas in a reasonable manner and at a reasonable time to ensure compliance with this Article. Any forbearance on the part of the Corps to exercise its rights in the event of a violation shall not be deemed or construed to be a waiver of its rights hereunder in the event of any subsequent violation. Should the Corps prevail in an enforcement action, the Corps shall be entitled to recover the cost of restoring the Preservation Areas to the natural vegetative and hydrologic condition existing at the time of execution of this Declaration or to the vegetative and hydrologic condition required by the Corps Permit.

## ARTICLE XIII

### DECLARANT'S RIGHTS

13.1 Declarants Rights. Any provision of this Declaration to the contrary notwithstanding, until Declarant has completed all of the contemplated improvements and closed the sales of all of the Parcels, neither the Owners nor the Association shall interfere with the completion of Declarant's planned improvements and the sale of the Parcels. Declarant may make such lawful use of the unsold Parcels and the Common Property, without charge, as may facilitate such completion and sale, including, but not limited to, maintenance of sales and construction trailers and offices, the showing of the Parcels and the display of signs and the use of Parcels for vehicular parking. Without limiting the generality of the foregoing, except only when the express provisions of this Declaration prohibit the Declarant from taking a particular action, nothing in this Declaration shall be understood or construed to prevent or prohibit Declarant from any of the following:

A. Doing on any property owned by it, whatever it determines to be necessary or advisable in connection with the completion of the development of the Property, including without limitation, the alteration of its construction plans and designs as Declarant deems advisable in the course of development; or

B. Erecting, constructing and maintaining on any property owned or controlled by Declarant such structures as may be reasonably necessary for the conduct of its business of completing said development and establishing the Property as a community and disposing of the same by sale, lease or otherwise; or

C. Conducting on any property owned or controlled by Declarant, its business of developing, subdividing, grading and constructing improvements in the Property and of disposing of Parcels therein by sale, lease or otherwise; or

D. Maintaining such sign or signs on any property owned or controlled by Declarant as may be necessary or desired in connection with the operation of any Parcels owned by Declarant or the sale, lease, marketing or operation of Parcels; or

E. Filing Supplemental Declarations which modify or amend this Declaration, which add or withdraw Additional Property as provided in this Declaration, or otherwise limit or impair the Declarant from effecting any action which may be required of Declarant by the City, County or any other federal, state or local governmental or quasi-governmental agency in connection with the development and continuing operation of the Property; or

F. Modifying, changing, re-configuring, removing or otherwise altering any improvements located on the Common Property or utilizing all or portions of the Common Property for construction access or staging (provided that same does not impair existing access or utility services to the Parcels); or

G. Causing utilities to be available to all portions of the Property, including, but not limited, to the granting of easements and rights of way as may be necessary to locate, install and maintain facilities and connections.

13.2 Declarant's Transfer Rights. Any or all of the special rights and obligations of the Declarant may be transferred or assigned to other Persons provided (1) the transfer or assignment shall not reduce any obligation nor enlarge a right beyond that contained herein, and (2) no such transfer shall be effective unless in writing signed by the Declarant and duly recorded in the public records of the County.

13.3 Right of Approval. So long as the Declarant continues to have rights under this Article, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or

similar instrument affecting any portion of the Property prior to the Turnover Date, without Declarant's written consent thereto. Any such instrument recorded without the Declarant's written consent, as required herein, shall be void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

13.4 Easements. At any time prior to the Turnover Date, the Declarant shall have the right, in its sole discretion, to grant additional easements over the Common Areas and/or Declarant's property.

13.5 Termination of the Declarant's Rights. Prior to the Turnover Date, neither this Article, nor any of Declarant's rights under the Declaration, may be amended or terminated, without the express written consent of the Declarant.

13.6 Interpretation of the Declarant's Rights. In the event any term or provision in this Declaration, the Homeowners Documents, and any related document, respecting the rights of the Declarant, including, without limitation, those respecting voting, Assessments, or the right to amend this Declaration, shall be deemed invalid, such provision shall not be stricken but shall be deemed amended and construed to provide the Declarant, at all times and in all instances, with the maximum rights permitted by law.

## ARTICLE XIV

### COMPLETION OF ROADS AND IMPROVEMENTS

Upon the final completion of improvements, including roads, the Surface Water Management System, entrance features, detention areas and swales, landscaping, and the installation of utilities, the Declarant shall provide written documentation from licensed engineers or contractors to the Association certifying that all improvements have been completed in accordance with the specified plans, City and/or State regulations, and in accordance with the requirements of the District. Declarant shall be responsible for the completion of all roads. Upon completion of the improvements and certification to the Association, the Association shall assume all responsibility for such Common Property and Areas of Common Responsibility, including the Surface Water Management System, and all other Association obligations as set forth herein and Declarant shall have no further duty or obligation to the Association.

## ARTICLE XV

### MORTGAGEE PROVISIONS

15.1 Records and Notices. The Association shall make available to all Owners and to all holders of Mortgages on Parcels, and to insurers and guarantors of any first mortgage, for inspection, upon request, during normal business hours or under other reasonable circumstances, current copies of this Declaration (with all amendments) and the Articles, Bylaws, rules and regulations, and the books and records of the Association (including the budget). Such persons shall be entitled, upon prior written request, (i) to receive a copy of the Association's financial statement for the immediately preceding fiscal year, (ii) to receive notices of and attend Association meetings, (iii) to receive notice from the Association of an alleged default by any Owner in the performance of such Owner's obligations under this Declaration, the Articles or Bylaws of the Association, which default is not cured within thirty (30) days after the Association learns of such default and to the extent that the mortgagee, insurer and/or guarantor has an interest, by virtue of the Mortgage, in the Parcel owned by the defaulting Owner, and (iv) to receive notice of any substantial damage or loss to the Common Property.

15.2 Adverse Events. Any holder, insurer or guarantor of a Mortgage on a Parcel shall have, if first requested in writing, the right to timely written notice of (i) any condemnation or casualty loss affecting a material portion of the Common Property, (ii) a sixty (60) day delinquency in the payment of the Assessments on a mortgaged Parcel, and (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

15.3 Taxes and Other Charges. After thirty (30) days written notice to the Association, any holder, insurer or guarantor of a Mortgage on a Parcel shall have the right to pay, singly or jointly, taxes or other charges that are delinquent and have resulted or may result in a lien against or loss of the Association's title to any portion of the Common Property, and to receive prompt reimbursement from the Association.

15.4 Insurance Premiums. After thirty (30) days written notice to the Association, any holder, insurer or guarantor of a Mortgage on a Parcel shall have the right to pay, singly or jointly, any overdue premiums on any hazard insurance policy covering the Common Property or obtain, singly or jointly, new hazard insurance coverage on the Common Property upon the lapse of a policy and, in either case, receive prompt reimbursement from the Association.

## ARTICLE XVI

### ENFORCEMENT OF DECLARATION

This Declaration may be enforced by any proceeding at law for damages or any proceeding in equity to compel compliance with its terms or to prevent any future violation or breach of any of the covenants, terms, conditions, and restrictions contained herein or in the Homeowners Documents. The terms, conditions, covenants, and restrictions of this Declaration and the Homeowners Documents may be enforced by the Declarant, the Association, or any Member; provided, however, any Member who takes any action to enforce this Declaration, or the Homeowners Documents, shall indemnify and hold harmless the Declarant and the Association from any loss or expense arising from or related to such action, including but not limited to reasonable attorney's, paralegals' and other professionals' fees, whether prior to or at trial and in any appellate or bankruptcy proceeding. In the event such Member fails to meet its obligation to indemnify and hold harmless the Association, all costs incurred by the Association as a result thereof shall be charged against the Parcel and the Owner thereof in accordance with the provisions of this Declaration. Said charge shall be deemed a Special Assessment and shall constitute a lien on the Parcel, enforceable in the same manner as other Assessments as set forth in this Declaration.

## ARTICLE XVII

### AMENDMENTS

The holders of at least two-thirds (2/3) of the votes in the Association (without regard to class) may change or amend any provision hereof either (1) by executing a written instrument in recordable form setting forth such amendment, or (2) by causing a certified copy of a duly adopted resolution of the Owners to be prepared, and having the same recorded in the Public Records of the County. Any proposed amendment may be initiated by Declarant, the Association, or petition signed by ten percent (10%) of the Owners. If a proposed amendment is to be adopted by vote, a written copy of the proposed amendment shall be furnished to each Owner at least thirty (30) days but not more than ninety (90) days prior to the meeting to discuss the proposed amendment. If adopted by vote, the affirmative vote required for adoption shall be two-thirds (2/3) of the votes of the Members (without regard to class) cast in person or by proxy at a meeting duly called, and the recorded certificate shall contain a recitation that notice was given as above set forth and said recitation shall be conclusive as to all parties, and all parties of any nature whatsoever shall have full right to rely upon said recitation in such recorded certificate. The amendment shall be effective upon recordation of the executed amendment, or the certified copy of the duly adopted resolution, among the Public Records of the County.

17.1 Limitation on Amendments. Any amendment that would affect or alter the Surface Water Management System, including the water management portions of the Common Areas, beyond maintenance in its original condition, must have the prior approval of the District and the City. This Declaration may not be amended without the prior written consent of the District if such amendment would change any of the provisions of this Declaration governing or affecting the operation, maintenance or repair of the Surface Water Management System for the Property.

17.2 Scrivener's Errors. Prior to the Turnover Date, the Declarant may amend this Declaration in order to correct any scrivener's error or similar defect or omission without the consent of the Members or the Board, provided that such amendment is reasonable and does not materially affect the rights of the Members. Such an amendment shall be executed by the Declarant and a copy furnished to each Member, the Association, and all Institutional Mortgagees as soon as practicable after the recording thereof in the public records of the County.

17.3 Effective Date of Amendments. Any amendment to the Declaration shall be effective upon the recording of such amendment in the public records of the County.

## ARTICLE XVIII

### CONVEYANCES

The sale or lease of Parcels shall be subject to the following restrictions:

18.1 Notice to Association. Every Owner, other than the Declarant, who sells, leases, or otherwise conveys any interest in their Parcel, shall provide the Association with written notice within ninety (90) days after: (i) the closing date of the sale or conveyance of the Parcel, or (ii) the effective date of any lease. The foregoing notice shall include the name, address, and telephone number (and fax number if applicable) of the new Owner or lessee, and shall include a written agreement signed by the new Owner or lessee agreeing to comply with the terms and provisions of this Declaration. In the event the Parcel is sold, it shall then be the responsibility of the new Owner to provide the Association with a recorded copy of the deed. It is not the intention of this Article to grant the Association a right of first refusal to purchase or lease the Parcel, or a right to approve the purchaser(s), grantee(s) or lessee(s). It is, however, the intent of this paragraph to impose an affirmative duty on the Owners to keep the Association advised of any changes in occupancy or ownership.

18.2 Lease Agreement Terms. Any and all lease agreements between an Owner, other than the Declarant, and a lessee of such Owner shall: 1) be in writing; 2) provide for a term of not less than six (6) months; 3) provide that the lessee shall be subject in all respects to the terms and provisions of this Declaration; 4) provide that failure by the lessee to comply with the terms and provisions of this Declaration shall constitute a material default and breach of the lease agreement; and 5) designate which party shall be responsible for the payment of Assessments; provided, however, nothing contained in any lease agreement shall relieve the Owner of the obligation to pay Assessments and the Owner shall remain primarily liable. During the term of any lease, the lessee shall be entitled to the Owner's rights of use and enjoyment of the Common Areas and facilities, and the Owner shall be deemed to have relinquished said rights during such period.

## ARTICLE XIX

### TERMINATION

19.1 Termination. This Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by Declarant, the Association and any Owner, and their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded in the public records, after which time this Declaration and each Supplemental Declaration shall be automatically extended for successive periods of ten (10) years unless prior to the commencement of any 10-year extension period an instrument signed by the Owners of eighty percent (80%) of the Parcels and agreeing to terminate this Declaration is recorded in the Public Records of the County.

19.2 Survival of Covenants. The following covenants and restrictions shall remain in effect, notwithstanding the termination of this Declaration, and any document(s) terminating this Declaration shall provide the following:

A. That all Parcels shall continue to be used solely as provided in Section 10.1 of this Declaration;

B. All Common Property shall be owned and held in equal shares by the Owners as tenants in common, and each Owner shall remain obligated to pay his pro rata share of expenses to continually maintain the Common Property; and

C. Each and every provision related to the monitoring and maintenance of the Conservation Areas (including the Preserve Area Management Plans) and Surface Water Management System shall remain in effect, unless expressly released in writing by the District, City and/or County, as appropriate.

19.3 Ownership of Surface Water Management System. If the Association is terminated, all interests held by the Association in the Surface Water Management System, both real and personal property, shall be conveyed to the agency of local government determined to be acceptable by the District, and if not accepted thereby, then to a similar non-profit corporation for the operation and maintenance thereof.

## ARTICLE XX

### MISCELLANEOUS

20.1 No Waiver. The failure by the Declarant, the Association or any Owner, to object to any Person's failure to comply with any of the terms and provisions contained herein, shall in no event be deemed a waiver of any right to object to same and to otherwise seek compliance with the provisions herein.

20.2 Headings. Article and paragraph captions inserted throughout this Declaration are inserted only as a matter of convenience and are for reference only. In no way shall such captions or headings serve to define, limit or in any way affect the interpretation of any of the terms and provisions of this Declaration.

20.3 Pronouns. Whenever the context requires, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns or pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

20.4 Severability. In the event any one of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

20.5 Partition. The Association may not convey, encumber, abandon, partition or subdivide any of the Common Areas without the approval of all Institutional Mortgagees.

20.6 Homeowners Documents. The Association is required to make current copies of the Declaration, Articles of Incorporation, Bylaws, Rules and Regulations and other such documents governing the Association, as well as the books, records, and financial statements of the Association, available to Members, Institutional Mortgagees, the Declarant, and to holders, insurers or guarantors of any first Mortgage. "Available" shall be defined as obtainable for inspection during normal business hours or under such other reasonable circumstances, within a reasonable time after written request. Any Institutional Mortgagee who holds a Mortgage shall be entitled to a financial statement of the Association for the preceding fiscal year, within a reasonable time after written request.

20.7 Effective Date. This Declaration shall become effective upon its recordation in the Public Records of the County.

20.8 Conflict. This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and By-Laws of the Association and said Articles shall take precedence over the By-Laws and any rules hereinafter promulgated.

20.9 Cooperation. Each Owner, by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree, to cooperate in, and support, any and all zoning, administrative, governmental and/or quasi-governmental filings, applications, requests, submissions and other actions necessary or desired for development and/or improvement of the Property, including, without limitation, signing any required applications, plats, etc. as the owner of any portion of the Property owned or controlled thereby when necessary or requested.

20.10 Easements. Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to have been so created shall nevertheless be considered as having been granted directly to the Association as agent for such intended grantees for the purpose of allowing the original party or parties to whom the easements were originally intended to have been granted the benefit of such easement and the Owners hereby designate the Declarant and the Association (or either of them) as their lawful attorney-in-fact to execute any instrument on such Owners' behalf as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. All parties using easements granted in this Declaration shall use reasonable efforts to minimize interference with all other permitted uses of the easements and the property subject thereto and shall restore any damage to such property caused in the exercise of any rights granted in any such easement.

20.11 No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Common Property to the public, or for any public use. The Roads may not be dedicated to, nor will they be accepted by the City or the County.

20.12 Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Parcel, shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition, lien and covenant contained herein, whether or not any reference hereto is contained in the instrument by which such person acquired an interest in such Parcel.

## ARTICLE XXI

### DISCLAIMERS

21.1 Disclaimer of Representations or Warranties. EXCEPT AS EXPRESSLY PROVIDED IN THIS DECLARATION, NO REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, HAS BEEN GIVEN OR MADE BY DECLARANT OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH THE PROPERTY, ITS PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS, MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF. IF ANY SUCH WARRANTY CANNOT BE DISCLAIMED, AND AS TO ANY CLAIMS WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED.

21.2 General. Notwithstanding anything contained herein or in the Articles, bylaws and rules and regulations of the Association or any other document governing or binding the Association, Declarant or the Property (collectively, the "constituent documents"), neither the Association nor the Declarant shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner, occupant or user of any portion of the Property including, without limitation, residents and their families, agents, employees, contractors, guests or invitees, or for any property of any such persons. Without limiting the generality of the foregoing: it is the express intent of the constituent documents that the various provisions thereof which are enforceable by the Association or Declarant or which govern the uses of the Property, have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the Property and the value thereof;

A. the Association is not empowered, nor has been created, to act as an entity which enforces or ensures compliance with the laws of the United States, State of Florida, the City, County or any other jurisdiction, or prevents tortious activities; and

B. any provisions of the constituent documents setting forth the uses of assessments which relate to health, safety and/or welfare shall be interpreted and applied only as limitations on the uses of assessment funds and not as creating a duty of the Association to protect or further the health, safety or welfare of any person(s), even if assessment funds are chosen to be used for such reason.

Each Owner (by virtue of its, his or her acceptance of title to its, his or her Parcel) and each other person having an interest in or lien upon, or making any use of, any portion of the Property (by virtue of accepting such interest or lien or making such uses) shall be bound by this ARTICLE XXI and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association or Declarant and arising from or connected with any matter for which the liability of the Association or Declarant has been disclaimed in this Article or in this Declaration generally.

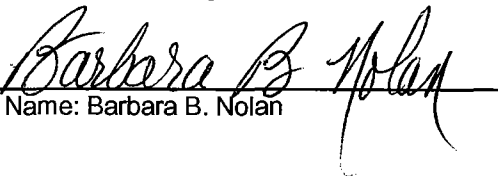
As used in this ARTICLE XXI, the words "Association" and "Declarant" shall each include within their meanings all of the respective directors, officers, committees and board members, employees, agents, contractors (including without limitation management companies), and successors and assigns of each.

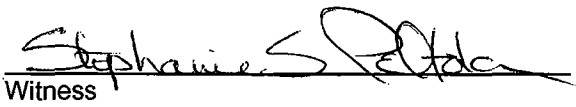
IN WITNESS WHEREOF, Declarant has executed this Declaration on the day and year first written above.

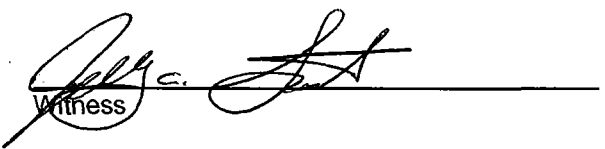
FL LAND PARTNERS, LLC, a Delaware limited liability company

By: National Land Partners, LLC, a Delaware limited liability company, Manager

By: American Land Partners, Inc., a Delaware corporation, Manager

By:   
Print Name: Barbara B. Nolan

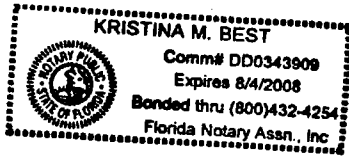
  
Witness

  
Witness

(CORPORATE SEAL)

STATE OF FLORIDA  
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 10 day of November, 2006, by Barbara B. Nolan, authorized representative of AMERICAN LAND PARTNERS, INC., a Delaware corporation, Manager of National Land Partners, LLC, a Delaware limited liability company, Manager of FL LAND PARTNERS, LLC, a Delaware limited liability company, who acknowledges that she executed this instrument as such Officer of said Corporation, and that the seal affixed is the corporate seal of said Corporation, and that said seal was affixed by due and regular corporate authority, and that it was the free act of said Corporation, and who is personally known to me or who has produced \_\_\_\_\_ as identification and who did take an oath.



Kristina M. Best  
NOTARY PUBLIC  
Print Name: Kristina M. Best  
State of Florida  
My Commission Expires: 8-4-08


**Exhibit "A"**  
**Legal Description of the Property**

A portion of Section 17, 18, 19 and 20, Township 35 South, Range 29 East, Highlands County, Florida, being more particularly described as follows:

Commence at the North line of said Section 20 and the West right-of-way line of Sparta Road (a 66 foot wide right-of-way); thence N00°06'53" W, along said West right-of-way line, for 627.05 feet to the Point of Beginning; thence S00°06'53" E along said West right-of-way line for 627.05 feet to the common line between said Sections 17 and 20, thence S00°47'11" E, still along said West right-of-way line, for 2743.06 feet, thence S89°08'15" W for 652.91 feet, thence S00°47'23" E for 300.02 feet, thence S89°07'22" W for 638.31 feet to the West line of Section 20; thence S00°51'54" E along said West line of Section 20, for 1789.68 feet to the North right-of-way line of State Road No. 66, said line being a non-tangent curve concave to the North; thence along said curve to the right and said North right-of-way line for State Road No. 66 having for its elements a radius of 5679.58 feet, central angle of 12°57'30", chord length of 1281.78 feet, chord bearing of S77°37'02"W for an arc distance of 1284.50 feet to a point, thence N01°23'37"W, departing said right-of-way, for 249.15 feet; thence S89°48'39" W for 1290.41 feet; thence S01°55'40" E for 277.63 feet to the intersection of the North right-of-way line of State Road No.66, thence S89°49'50" W, along said North right-of-way line, for 1375.39 feet to the intersection of the West line of Government Lot 14 in said Section 19; thence N00°23'43"W, along the West line of Government Lots 14, 11, 6 and 3, in said Section 19, for 5235.47 feet to the North line of said Section 19, said line being the South line of said Section 18; thence N00°17'07" W, along the West line of Government Lots 12 and 9 in said Section 18, for 2699.85 feet to the Northwest corner of said Government Lot 9; thence S89°24'01"E, along said North line of said Government Lot 9, for 1305.47 feet to the Northeast corner of said Government Lot 9, thence S00°21'03" E, along the East line of said Government Lot 9 for 901 feet more or less to the shoreline of Lake Ruth; thence meandering said shoreline in a Southwest, Southeast, Northeast and Northerly direction to the intersection with the North line of Government Lot 13 in said Section 18; thence S89°12'11"E, along the North line of said Government Lot 13 for 410 feet more or less to the shoreline of Lake Charlotte; thence meandering said shoreline in a Southeasterly, Easterly and Northeasterly direction to the intersection of a line that bears N60°28'07"W from the Point of Beginning; thence S60°28'07"E for 396 feet more or less to the Point of Beginning.

**Exhibit "B"**  
**Articles of Incorporation**

# State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of HIGHLAND LAKES RESERVE PROPERTY OWNERS ASSOCIATION, INC., a Florida corporation, filed on November 8, 2006, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H06000270937. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below

The document number of this corporation is N06000011689.

Authentication Code: 606A00066088-110906-N06000011689-1/1

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Ninth day of November, 2006



*Sue M. Cobb*  
Sue M. Cobb  
Secretary of State

**ARTICLES OF INCORPORATION  
OF  
HIGHLAND LAKES RESERVE PROPERTY OWNERS ASSOCIATION, INC.  
a Florida corporation not-for-profit**

The undersigned incorporator, for the purpose of forming a corporation not-for-profit pursuant to the laws of the State of Florida, Florida Statutes, Chapter 617, hereby adopts the following Articles of Incorporation:

**ARTICLE I**

**NAME**

The name of the corporation is HIGHLAND LAKES RESERVE PROPERTY OWNERS ASSOCIATION, INC., hereinafter called the "Association".

**ARTICLE II**

**TYPE OF CORPORATION**

The Association is a not-for-profit corporation and has no capital stock.

**ARTICLE III**

**DURATION**

The period of duration is perpetual.

**ARTICLE IV**

**PURPOSES AND POWERS**

This Association does not contemplate pecuniary gain or profit to its members, and the purposes for which it is formed are to provide for maintenance, preservation of the common maintenance area within that certain real property described in that certain Declaration of Covenants and Restrictions for Highland Lakes Reserve, recorded in the Official Records of Highlands County, Florida, (hereinafter called "the "Declaration"), and such additional properties as may be added thereto from time to time by annexation or otherwise as provided in the Declaration and in these Articles; and to promote the health, safety and welfare of the residents within such properties and for these purposes the Association shall have the following powers:

(a) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in said Declaration and as the same may be amended from time to time as therein provided, the Declaration being incorporated herein as if

set forth at length;

(b) To fix, levy and collect (enforcing payment by any lawful means) all charges and assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including for example, but not by way of limitation, all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) To purchase, receive, lease or otherwise own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) To borrow money, and with the assent of two-thirds (2/3) of each class of members to mortgage or pledge any or all of its real or personal property as security for money borrowed or debts incurred;

(e) To engage the services of agents, independent contractors or employees to manage, operate or perform all or any part of the affairs and business of the Association; and

(f) To do and perform any and all lawful things and acts which in its discretion are necessary or desirable in carrying out any or all of the purposes for which the Association is formed, and pay the costs and/or expenses in connection therewith.

Further, the Association shall have and exercise any and all powers, rights and privileges which a corporation organized under Chapter 617 of the Florida Statutes may now or hereafter have or exercise.

**ARTICLE V**

**MEMBERSHIP**

Every person or entity who is a record owner ("Owner") of a fee or undivided fee interest in any Parcel (as that term is defined in the Declaration) which is subject by the Declaration to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Parcel which is subject to assessment by the Association. Ownership of such Parcel shall be the sole qualification of membership.

The Bylaws of the Association may provide for suspension of membership rights for failure to pay assessments and for violation of the Rules and Regulations established by the Board of Directors.

**ARTICLE VI**

**VOTING RIGHTS**

The Association shall have two classes of voting membership:

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

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each Parcel owned. The Class B membership shall cease and convert to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) Ninety (90) days after Ninety Percent (90%) of the Parcels have been conveyed to Members other than the Declarant; or
- (b) After the Declarant elects to relinquish its control; or
- (c) 5 years after the conveyance of the first Parcel by Declarant.

**ARTICLE VII**

**AGENT AND OFFICES**

The registered office of the Association shall be:

**7208 Sand Lake Road  
Suite 304  
Orlando FL 32819**

The registered agent of the Association shall be: **Barbara Nolan.**

The principal office of the Association is located at:

**7208 Sand Lake Road  
Suite 304  
Orlando FL 32819**

**ARTICLE VIII**

**BOARD OF DIRECTORS**

The affairs of the Association shall be managed by a Board of not less than three (3) directors, who need not be members of the Association. The number of directors may be changed by amendment of the Bylaws of the Association but shall always consist of an odd number. The names and addresses of the persons who are to serve until the election of their successors are:

<u>Directors</u>	<u>Address</u>
Barbara Nolan	7208 Sand Lake Road, Suite 304 Orlando FL 32819
Jeffrey Switzer	7208 Sand Lake Road, Suite 304 Orlando FL 32819
Donald Smith	7208 Sand Lake Road, Suite 304 Orlando FL 32819

At the first annual meeting, the Declarant, as defined in the Declaration, shall appoint one (1) director for a term of one (1) year, one (1) director for a term of two (2) years, and one (1) director for a term of three (3) years; and, at each annual meeting thereafter, the Class A and Class B members shall elect each succeeding director for a term of three (3) years to fill each expiring term.

**ARTICLE IX**

**MERGERS AND CONSOLIDATIONS**

To the extent permitted by law, the Association may participate in mergers and consolidations with other not-for-profit corporations organized for the same purposes, provided that any such merger or consolidation shall have the assent of two-thirds (2/3) of each class of voting membership.

**ARTICLE X**

**AUTHORITY TO MORTGAGE**

After same real property has been conveyed to the Association, any mortgage by the Association of the common area defined in said Declaration shall have the assent of two-thirds (2/3) of each class of membership.

**ARTICLE XI**

**AUTHORITY TO DEDICATE**

The Association shall have power to dedicate, sell or transfer all or any part of the common area (after same has been conveyed to it) to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer may be effective unless an instrument has been signed by members entitled to cast two-thirds (2/3) of the votes of each class of membership agreeing to such dedication, sale or transfer.

**ARTICLE XII**

**DISSOLUTION**

The Association may be dissolved with the assent given in writing and signed by not less than ninety percent (90%) of each class of membership. Upon dissolution of the Association, the assets both real and personal of the Association, shall be dedicated to an appropriate public agency to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any not-for-profit corporation, association, trust or other organization to be devoted to purposes and uses that would most nearly reflect the purposes and uses to which they were required to be devoted by the Association. This procedure shall be subject to court approval on dissolution pursuant to F.S. 617.05.

**ARTICLE XIII**

**MEETINGS FOR ACTIONS GOVERNED BY ARTICLES IX THROUGH XII**

In order to take actions under Articles IX through XII, there must be a duly held meeting. Written notice, setting forth the purpose of the meeting shall be given to all members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. The presence of members or of proxies entitled to cast a majority of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**ARTICLE XIV**

**OFFICERS**

The officers of the Association shall be a president, vice president, secretary, treasurer and such other officers as the Board may from time to time by resolution create. The

officers shall serve at the pleasure of the Board. The Bylaws may provide for the removal from office of officers, for filling vacancies, and for the duties of the officers. The name of the officers who shall serve until their successors are designated by the Board are as follows:

President	Barbara Nolan
Vice President	Jeffrey Switzer
Secretary/Treasurer	Donald Smith

**ARTICLE XV**

**BYLAWS**

The first Bylaws shall be adopted by the Board and may be altered, amended or rescinded by the Declarant (as defined in the Declaration), the directors or members in the manner provided by the Bylaws.

**ARTICLE XVI**

**AMENDMENTS**

Amendments to these Articles shall be proposed and adopted in the following manner:

(a) A resolution setting forth the proposed amendment may be proposed by a majority of the Board or by not less than one-third (1/3) of the membership.

(b) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote thereon within the time and in the manner provided in the Bylaws for the giving of notice of a meeting of the members. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

(c) At such meeting, a vote of the members entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of 2/3 of the votes of each class of membership of the Association.

(d) Any number of amendments may be submitted to the members and voted upon by them at any meeting.

(e) Prior to the closing of the sale of all Parcels within the Property, no amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the Declarant, unless the Declarant shall join in the execution of the amendment.

(f) Upon approval of an amendment to these Articles by the members, the articles of amendment shall be executed and delivered to the Department of State as provided by law, and a copy certified by the Department of State shall be recorded in the public records of Highlands County, Florida.

**ARTICLE XVII**

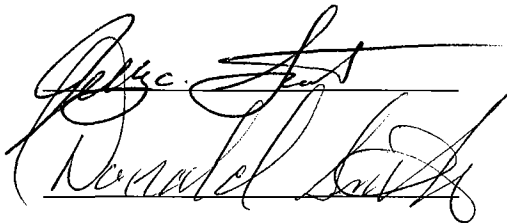
**INCORPORATOR**

The name and street address of the incorporator is:

**Barbara Nolan  
7208 Sand Lake Road, Suite 304  
Orlando FL 32819**

Wherefore, the incorporator and the initial registered agent have executed these Articles this 7 day of November, 2006.

Signed, sealed and delivered  
in the presence of:

  
\_\_\_\_\_  
Notary Public

  
\_\_\_\_\_  
Barbara Nolan, Incorporator

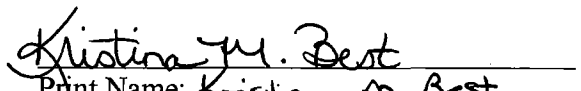
STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 7 day of November, 2006, by Barbara Nolan. Said person (check one  is personally known to me,  produced a driver's license (issued by a state of the United States within the last five (5) years) as identification, or  produced other identification, to wit:

\_\_\_\_\_



  
\_\_\_\_\_  
Print Name: Kristina M. Best  
Notary Public, State of Florida  
Commission No.: DD0343909

My Commission Expires: 8-4-08

**Exhibit "C"**

**BYLAWS**

**OF**

**HIGHLAND LAKES RESERVE PROPERTY OWNERS ASSOCIATION, INC.**

**ARTICLE I**

**NAME AND LOCATION**

The name of the corporation is HIGHLAND LAKES RESERVE PROPERTY OWNERS ASSOCIATION, INC., hereinafter referred to as the "Association". The initial registered office of the corporation shall be located at 7208 Sand Lake Road, Suite 304, Orlando, Florida 32819. Meetings of members and directors may be held at such places as may be designated by the Board of Directors.

**ARTICLE II**

**DEFINITIONS**

Section 1. "Association" shall mean and refer to the HIGHLAND LAKES RESERVE PROPERTY OWNERS ASSOCIATION, INC., a Florida not-for-profit corporation.

Section 2. "Common Area" or "Common Areas" shall mean and refer to all real property, or easements, which the Association owns, leases, or otherwise retains the right to possess or use for the common use and enjoyment of the Owners.

Section 3. "Declarant" shall mean and refer to FL Land Partners, LLC, a Delaware limited liability company, its successors or assigns.

Section 4. "Declaration" shall mean and refer to the Declaration of Covenants and Restrictions for Highland Lakes Reserve, and any amendments, annexations and supplements thereto made in accordance with its terms.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Parcel, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

Section 6. "Parcel" or "Tract" shall mean each portion of the Property identified on the Plat for use by an Owner, as that term is defined by the Declaration.

Section 7. "Project" shall mean and refer to the real property described in the Plan and all property duly annexed thereto.

Section 8. "Property" shall mean and refer to the real and personal property subject to the Declaration.

Section 9. "Plat" or "Plat of Highland Lakes Reserve" shall mean and refer to the Plat of Highland Lakes Reserve, as recorded in the Public Records of Highlands County, Florida.

### **ARTICLE III**

#### **MEMBERSHIP**

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Parcel which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Parcel. Ownership of such Parcel shall be the sole qualification for membership.

Section 2. Suspension of Membership Rights. During any period in which a member shall be in default in the payment of any annual or special assessment levied by the Association, the voting rights may be suspended by the Board of Directors until such assessment has been paid. Such rights of a member may also be suspended after notice and hearing, for a period not to exceed 60 days, for violation of any rules and regulations established by the Board of Directors governing the use of the Common Area and facilities, if any.

### **ARTICLE IV**

#### **PROPERTY RIGHTS AND OTHER RIGHTS OF ENJOYMENT**

Section 1. Each member shall be entitled to the use and enjoyment of the Common Area as provided, and to the extent provided in the Declaration. Any member may delegate his rights of enjoyment of the Common Area to the members of his family, his tenants or contract purchasers, who reside on the property. Such member shall notify the secretary in writing of the name of any such delegate. The rights and privileges of such delegate are subject to suspension to the same extent as those of the member.

## ARTICLE V

### **BOARD OF DIRECTORS: SELECTION AND TERM OF OFFICE**

Section 1. Number. The affairs of the Association shall be managed by a Board of at least three (3) directors, who need not be members of the Association.

Section 2. Election. At the first annual meeting, the members shall elect one (1) director for a term of one (1) year, one (1) director for a term of two (2) years, and one (1) director for a term of three (3) years; and at each annual meeting thereafter the members shall elect the director for a term of three (3) years to fill each expiring term.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successors shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

## ARTICLE VI

### **MEETINGS OF DIRECTORS**

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held quarterly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## **ARTICLE VII**

### **NOMINATION AND ELECTION OF DIRECTORS**

Section 1. Nomination. Nomination for election to the Board of Directors may be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot cast at the annual meeting. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## **ARTICLE VIII**

### **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 1. Powers. The Board of Directors shall have the power:

(a) To adopt and publish rules and regulations governing the use of the Property, and to establish penalties for the infraction thereof;

(b) To exercise for the Association all power, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;

(c) To declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors without just cause having been furnished to and accepted by the Board;

(d) To establish, disburse and maintain such petty cash fund as necessary for efficiently carrying on the business of the Association; and

(e) To engage the services of a manager, an independent contractor, or such employees as it deems necessary, and to prescribe the conditions, compensation and duties

of their work. Such power shall include authority to enter into management agreements with other parties to manage, operate or perform all or any part of the affairs and business of the Association.

Section 2.     Duties. It shall be the duty of the Board of Directors:

(a) To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members or at any special meeting, when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;

(b) To supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) As more fully provided herein, and in the Declaration.

(1) To fix the amount of the annual assessment against each Parcel at least thirty (30) days in advance of each annual assessment period, as hereinafter provided in Article XII, and

(2) To send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period;

(d) To issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether any assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. Such certificates shall be conclusive evidence of any assessment therein stated to have been paid;

(e) To procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) To cause all officers, employees or agents, having fiscal responsibility to be bonded, as it may deem appropriate; and

(g) To cause the Common Property to be maintained.

## **ARTICLE IX**

### **COMMITTEES**

The Association may appoint a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors may appoint other committees as deemed appropriate in carrying out its purposes.

## **ARTICLE X**

### **MEETINGS OF MEMBERS**

Section 1. Annual Meetings. The first annual meeting of the members shall be held within thirteen (13) months from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter provided that the Board of Directors may upon written notice to the members at least ten (10) days prior to the regular annual meeting date schedule the annual meeting date for a date not more than thirty (30) days subsequent to the regular annual meeting date. If the day for the annual meeting of the members is a legal holiday, the meeting will be held on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the entire membership or who are entitled to vote one-fourth (1/4) of the votes of the Class A membership.

Section 3. Notice of Meetings. Except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws, written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least ten (10) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies or Voting Representatives (as defined in the Declaration) entitled to cast, one-third (1/3) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid, shall be present or be represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Parcel.

## ARTICLE XI

### OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein; the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled in the manner prescribed for regular election. The officer elected to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

(a) President. The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out, shall sign all leases, mortgages, deeds, and other written instruments and shall co-sign all checks and promissory notes.

(b) Vice-President. The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; Keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) Treasurer. 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 of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting and deliver a copy of each to the members.

## ARTICLE XII

### ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. By the Declaration each member is deemed to covenant and agree to pay to the Association: (1) annual assessment charges, and (2) special assessment charges. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due and shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Maintenance Area.

Section 3. Basis and Maximum Increase of Annual Assessments of Class A Members.

(a) From and after January 1st of the year immediately following the conveyance of the first Parcel to a Class A member, the maximum annual assessment for Class A

members may be increased each year ten percent (10%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1st of the year immediately following the conveyance of the first Parcel to a Class A member the maximum annual assessment for Class A members may be increased above ten percent (10%) by a vote of two-thirds (2/3) of each class of members who are voting in person, by proxy or by Voting Representative at a meeting called for this purpose. Written notice of such meeting shall be sent to all members not less than ten (10) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

Section 4. Assessments to be Levied by Board. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may levy the annual assessments at an amount not in excess of the maximum set forth in Section 3.

Section 5. Special Assessments for Working Capital Fund, Nonrecurring Maintenance and Capital Improvements. In addition to the annual assessments authorized above, the Association may levy special assessments as follows:

(a) Upon sale of the first Parcel by the Declarant to a Class A Member, a special assessment equal to three (3) months' estimated regular assessment may be assessed which shall be due and payable upon conveyance of the Parcel to a Class A Member. The aggregate fund established by such special assessment shall be maintained in a segregated account, and shall be available for all necessary expenditures of the Association.

(b) In any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any nonrecurring maintenance, or the acquisition, construction, reconstruction, repair or replacement of a capital improvement upon any Common Area, including fixtures and personal property related thereto may be assessed. The Association shall not co-mingle the proceeds of such special assessments with the maintenance fund. Such proceeds shall be used solely and exclusively to fund the nonrecurring maintenance or improvements in question.

Section 6. Uniform Rate. Except for Parcels owned by the Declarant and any Professional Builder as set forth in the Declaration, both annual and special assessments must be fixed at a uniform rate for all single family Parcels and may be collected on a monthly, quarterly or annual basis.

Section 7. Quorum for any Action Authorized under Sections 3 and 5. At any meeting called as provided in Sections 3 and 5 hereof, the presence at the meeting of members or of proxies entitled to cast a majority of all the votes of each class of membership shall constitute

a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 3 and 5. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8. Date of Commencement of Annual Assessments; Due Dates. The annual assessment provided for herein shall commence as to all Parcels of the first day of the month following the conveyance of the first Parcel to a Class A member. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Parcel at least thirty (30) days in advance of each annual assessment period; provided, however, that the Board of Directors shall have the right to adjust the annual assessment as long as any such adjustment does not exceed the maximum permitted hereunder with thirty (30) days written notice given to each Owner. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Parcel have been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non-payment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within ten (10) days after the due date, the Association shall have the authority to impose late charges to compensate for the administrative and processing costs of late payments and the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law or in equity against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. The Association or its agents shall have the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in like manner as a mortgage or deed of trust lien on real property, and the Association shall have a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association acting on behalf of the Owners shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same; and to subrogate so much of its right to such liens as may be necessary or expedient to an insurance company continuing to give total coverage notwithstanding non-payment of such defaulting Owner's portion of the premium. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Maintenance Area or abandonment of his property.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages

granted or created by the Owner of any property to secure the payment of monies advanced and used for the purpose of purchasing and/or improving such property. Sale or transfer of any property shall not affect the assessment lien. However, the sale or transfer of any property which is subject to any mortgage, pursuant to a foreclosure under such purchase-money or improvement mortgages or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which become due prior to such sale or transfer. No sale or transfer shall relieve such property from liability or any assessments thereafter becoming due or from the lien thereof.

Section 11. No Reimbursement to Declarant. The proceeds of the regular annual assessments shall not be used to reimburse Declarant for any capital expenditures incurred in construction or other improvements of common facilities, if any, nor for the operation or maintenance of such facilities incurred prior to conveyance unencumbered to the Association.

### **ARTICLE XIII**

#### **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 Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any members at the principal office of the Association, where copies may be purchased at reasonable cost.

### **ARTICLE XIV**

#### **CORPORATE SEAL**

The Association shall have seal in circular form having within its circumference the words: "HIGHLAND LAKES RESERVE PROPERTY OWNERS ASSOCIATION, INC., corporation not-for-profit."

### **ARTICLE XV**

#### **FISCAL YEAR**

The Fiscal Year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

**ARTICLE XVI**

**AMENDMENTS**

Section 1. These Bylaws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is a Class B membership.

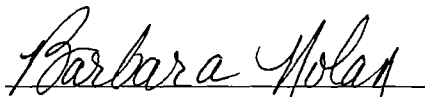
Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.


**ARTICLE XVII**

**GENDER AND GRAMMAR**

The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provision hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

IN WITNESS WHEREOF, we being all the Directors of the HIGHLAND LAKES RESERVE PROPERTY OWNERS ASSOCIATION, INC., have hereunto set our hands this 7 day of November, 2006.

  
Barbara Nolan

  
Jeffrey Switzer

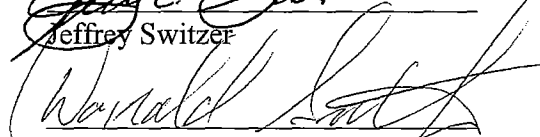
  
Donald Smith

Exhibit "D"  
Joinder and Consent by Mortgagee

**JOINDER AND CONSENT OF MORTGAGEE**

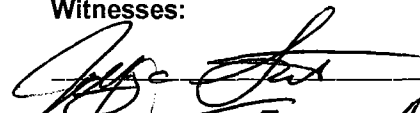
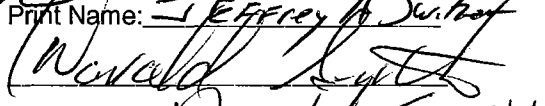
This Joinder and Consent to Recordation of the Declaration of Covenants and Restrictions of Highland Lakes Reserve ("Joinder and Consent") is made this 10 day of NOVEMBER, 2006, by **REGIONS BANK** ("Mortgagee"), whose post office address is 3101 SW College Rd. Ocala, FL 34474

Mortgagee hereby certifies that it is the holder of the mortgage and related loan documents described below (collectively, the "Mortgage") encumbering the Property described in the foregoing Declaration of Covenants and Restrictions for (the "Declaration"), by the execution hereof, hereby joins into and consents to the placing of the Declaration on the Property described in Exhibit "A" to the Declaration, and further covenants and agrees that the lien of the Security Documents is and shall be subordinate to the Declaration as if the Declaration had been executed and recorded prior to execution, delivery or recordation of the Security Documents:

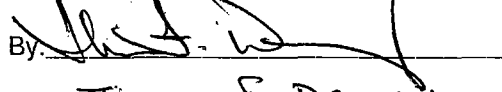
1. Mortgage by FL Land Partners, LLC, a Delaware limited liability company, as mortgagor, and Regions Bank, as mortgagee, recorded in Official Records Book 1841, Page 1482, Public Records of Highlands County, Florida.
2. Assignment of Collateral Voting and Developers Rights by FL Land Partners, LLC, a Delaware limited liability company, in favor of Regions Bank, recorded in Official Records Book 1841, Page 1503, Public Records of Highlands County, Florida.

IN WITNESS WHEREOF, REGIONS BANK has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its proper officers hereunto duly authorized, the day and year first above written.

Witnesses:

  
Print Name: Jeffrey A. Swartz  
  
Print Name: Donald Smith

REGIONS BANK

By:   
Name: Thomas F. Dewey  
Title: SVP

STATE OF FLORIDA )  
COUNTY OF Orange ) ss:

Sworn to and subscribed before me this 10 day of November, 2006, by Thomas Dewey, as SVP of REGIONS BANK. He/She is personally known to me or has produced driver's license (type of identification) as identification.



Kristina M. Best  
NOTARY PUBLIC, STATE OF FLORIDA

Kristina M. Best  
(Print, Type or Stamp Commissioned Name of Notary Public)

JOINDER AND CONSENT OF MORTGAGEE

This Joinder and Consent to Recordation of the Declaration of Covenants, Conditions and Restrictions of Highland Lakes Reserve ("Joinder and Consent") is made this 9 day of Nov, 2006, by PPM BROKERAGE SERVICES, INC. ("PPM"), whose post office address is 305 N Ocean Blvd Suite 121, Ft. Lauderdale, FL 33308

PPM hereby certifies that it is the holder of the mortgage described below encumbering the Property described in the foregoing Declaration of Covenants and Restrictions for Highland Lakes Reserve (the "Declaration"), by the execution hereof, hereby joins into and consents to the placing of the Declaration on the Property described in Exhibit "A" to the Declaration, and further covenants and agrees that the lien of the Security Documents described below is and shall be subordinate to the Declaration as if the Declaration had been executed and recorded prior to execution, delivery or recordation of the Security Documents.

1. Mortgage, by FL Land Partners, LLC, a Delaware limited liability company, as mortgagor, and PPM Brokerage Services, Inc., as mortgagee, recorded in Official Records Book 1841, Page 1500, Public Records of Highlands County, Florida.
2. Assignment of Leases, Rents and Profits filed April 12, 2005 in Official Records Book 1841, Page 1532, Public Records of Highlands County, Florida.
3. UCC Financing Statement between FL Land Partners, LLC, a Delaware limited liability company, and PPM Brokerage Services, Inc., recorded in Official Records Book 1341, Page 1538, Public Records of Highlands County, Florida.

IN WITNESS WHEREOF, PPM Brokerage Services, Inc. has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its proper officers hereunto duly authorized, the day and year first above written.

Witnesses:

[Signature]  
 Print Name: Leonard Lubart

[Signature]  
 Print Name: Jeffrey A. Swink

PPM BROKERAGE SERVICES, INC.

By: [Signature]  
 Name: James R Lambert  
 Title: president

STATE OF Florida )  
 COUNTY OF Broward ) ss:

Sworn to, and subscribed before me this 9 day of Nov, 2006, by James E Lambert as President of PPM BROKERAGE SERVICES, INC. He/She is personally known to me or has produced [Signature] (type of identification) as identification.

NOTARY PUBLIC, STATE OF



Exhibit "E"  
Environmental Resource Permit

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
ENVIRONMENTAL RESOURCE  
INDIVIDUAL CONSTRUCTION MODIFICATION  
PERMIT NO. 43021800.004

**Expiration Date: June 27, 2011**

PERMIT ISSUE DATE: June 27, 2006

This permit is issued under the provisions of Chapter 373, Florida Statutes (F.S.), and the Rules contained in Chapters 40D-4 and 40, Florida Administrative Code (F.A.C.). The permit authorizes the Permittee to proceed with the construction of a surface water management system in accordance with the information outlined herein and shown by the application, approved drawings, plans, specifications, and other documents, attached hereto and kept on file at the Southwest Florida Water Management District (District). Unless otherwise stated by permit specific condition, permit issuance constitutes certification of compliance with state water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341. All construction, operation and maintenance of the surface water management system authorized by this permit shall occur in compliance with Florida Statutes and Administrative Code and the conditions of this permit.

**PROJECT NAME:** Highland Lakes Reserve

**GRANTED TO:** Florida Land Partners, LLC  
7208 Sand Lake Road, Suite 304  
Orlando, FL 32819

**ABSTRACT:** This authorization amends the previously issued Conceptual Permit No. 49021800.001 and Construction Permit No. 49021800.002 and completely replaces all conditions of these permits by the conditions herein. This permit authorization is for the construction of a new surface water management system serving a 638.00-acre, 166 lot, single-family residential subdivision, as named above and as shown on the approved construction plans. The project site is located north of S.R. 66 and west of U.S. 27 in Highlands County. Information regarding the surface water management system, 100-year flood plain, and wetlands is contained within the tables and comments below.

**OP. & MAINT. ENTITY:** Highland Lakes Reserve Homeowners' Association, Inc.

**COUNTY:** Highlands

**SEC/TWP/RGE:** 17,18,19,20/35S/29E

**TOTAL ACRES OWNED  
OR UNDER CONTROL:** 638.00

**PROJECT SIZE:** 638.00 Acres

**LAND USE:** Single-family Residential

**DATE APPLICATION FILED:** September 29, 2005

**AMENDED DATE:** N/A

I. Water Quantity/Quality

POND NO.	AREA ACRES @ TOP OF BANK	TREATMENT TYPE
1	5.76	Wet Detention
2	7.24	Wet Detention
3	1.76	Wet Detention
4	1.60	Wet Detention
5	4.13	Attenuation Only
6	24.65	Wet Detention
7	2.69	Attenuation Only
8	5.74	Attenuation Only
9	2.46	Wet Detention
10	3.83	Attenuation Only
11	2.50	Attenuation Only
12	1.83	Attenuation Only
13	2.78	Attenuation Only
14	1.60	Wet Detention
15	0.18	Wet Detention
Lake Ruth Swale	2.98	Retention
Lake Charlotte Swale	1.25	Retention
<b>TOTAL</b>	<b>72.98</b>	

A mixing zone is not required.  
 A variance is not required.

II. 100-Year Floodplain

Encroachment (Acre-Feet of fill)	Compensation (Acre-Feet of excavation)	Compensation Type*	Encroachment Result**(feet)
0.00	0.00	NE [ X ]	Depth [ N/A ]

\*Codes [ X ] for the type or method of compensation provided are as follows:

NE = No Encroachment

N/A = Not Applicable

\*\*Depth of change in flood stage (level) over existing receiving water stage resulting from floodplain encroachment caused by a project that claims MI type of compensation.

III. Environmental Considerations

<b>Wetland Information:</b>				
<b>WETLAND NO.</b>	<b>TOTAL AC.</b>	<b>NOT IMPACTED AC.</b>	<b>TEMPORARILY DISTURBED AC.</b>	<b>PERMANENTLY DESTROYED AC.</b>
W-1	27.30	27.30	0.00	0.00
W-2	5.59	5.55	0.04	0.00
-3	0.09	0.09	0.00	0.00
W-4	16.01	16.01	0.00	0.00
W-5	10.58	10.48	0.00	0.10
W-6	4.63	4.63	0.00	0.00
W-7	1.44	1.44	0.00	0.00
W-8	0.80	0.80	0.00	0.00
W-9	0.24	0.24	0.00	0.00
W-10	0.47	0.47	0.00	0.00
<b>TOTAL</b>	<b>67.15</b>	<b>67.01</b>	<b>0.04</b>	<b>0.10</b>

Comments: The project area includes 67.15 acres of wetlands consisting of 16.65 acres of forested lake fringe wetlands (Wetlands 5, 6 and 7), 32.89 acres of forested wetlands connected to Wolf Creek (Wetlands 1 and 2), 1.04 acres of isolated forested wetlands (Wetlands 8 and 9), 16.01 acres of isolated shrub-scrub wetlands (Wetland 4) and 0.56 acre of isolated herbaceous wetlands (Wetlands 3 and 10). Permanent wetland impacts are proposed to 0.90 acre of wetlands (Wetlands W-3, W-5, W-9, and W-10). Temporary impacts are proposed to 0.04 acre of wetlands (Wetland W-2). The loss of 0.80 acre of isolated wetlands (Wetlands W-3, W-9, and W-10) is not recorded in the table above because it was deemed insignificant.

<b>Mitigation Information:</b>					
<b>AREA NO.</b>	<b>CREATED/ RESTORED AC.</b>	<b>UPLAND PRESERVED AC.</b>	<b>ENHANCED WETLAND AC.</b>	<b>WETLANDS PRESERVED AC.</b>	<b>MISC. MITI. AC.</b>
WC #1	0.50	0.00	0.00	0.00	0.00
<b>TOTAL</b>	<b>0.50</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>NET CHANGE</b>	<b>+0.40</b>	<b>OTHER MITIGATION TOTAL</b>			<b>0.00</b>

Comments: Mitigation for 0.10 acre of forested wetland impacts (Wetland W-5) is provided by 0.50 acre of forested wetland creation (WC #1). Mitigation is not required for impacts to Wetlands W-3, W-9, and W-10 as they meet the criteria in Subsection 3.2.2.1, of the District's Basis of Review. Mitigation is not required for 0.04 acre of temporary impacts to Wetland 2.

The functional loss of 0.08 due to the wetland impacts associated with this project is offset by the functional gain of 0.08 provided by the mitigation. The functional loss and functional gain were calculated using the Uniform Mitigation Assessment Methodology.

Watershed Name: Kissimmee Ridge

A regulatory conservation easement is not required.

A proprietary conservation easement is not required.

### SPECIFIC CONDITIONS

1. If the ownership of the project area covered by the subject permit is divided, with someone other than the Permittee becoming the owner of part of the project area, this permit shall terminate, pursuant to Section 40D-1.6105, F.A.C. In such situations, each land owner shall obtain a permit (which may be a modification of this permit) for the land owned by that person. This condition shall not apply to the division and sale of lots or units in residential subdivisions or condominiums.
2. Unless specified otherwise herein, two copies of all information and reports required by this permit shall be submitted to:  
  
Bartow Regulation Department  
Southwest Florida Water Management District  
170 Century Boulevard  
Bartow, FL 33830-7700  
  
The permit number, title of report or information and event (for recurring report or information submittal) shall be identified on all information and reports submitted.
3. The Permittee shall retain the design engineer, or other professional engineer registered in Florida, to conduct on-site observations of construction and assist with the as-built certification requirements of this project. The Permittee shall inform the District in writing of the name, address and phone number of the professional engineer so employed. This information shall be submitted prior to construction.
4. Within 30 days after completion of construction of the permitted activity, the Permittee shall submit to the Bartow Service Office a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the required Statement of Completion and Request for Transfer to Operation Entity form identified in Chapter 40D-1.659, F.A.C., and signed, dated and sealed as-built drawings. The as-built drawings shall identify any deviations from the approved construction drawings.
5. The District reserves the right, upon prior notice to the Permittee, to conduct on-site research to assess the pollutant removal efficiency of the surface water management system. The Permittee may be required to cooperate in this regard by allowing on-site access by District representatives, by allowing the installation and operation of testing and monitoring equipment, and by allowing other assistance measures as needed on site.
6. **WETLAND MITIGATION SUCCESS CRITERIA MITIGATION AREA WC #1**  
  
Mitigation is expected to offset adverse impacts to wetlands and other surface waters caused by regulated activities and to achieve viable, sustainable ecological and hydrological wetland functions. Wetlands constructed for mitigation purposes will be considered successful and will be released from monitoring and reporting requirements when the following criteria are met continuously for a period of at least one year without intervention in the form of irrigation or the addition or removal of vegetation.
  - A. The mitigation area can be reasonably expected to develop into a *Palustrine forested wetland* as determined by the USFWS Classification of Wetlands and Deepwater Habitats of the United States.
  - B. Topography, water depth and water level fluctuation in the mitigation area are characteristic of the wetland/surface water type specified in criterion "A."
  - C. The dominant and subdominant species of desirable wetland plants comprising each vegetation zone and stratum of the mitigation area shall be as follows:

ZONE	STRATUM	PERCENT COVER	DOMINANT SPECIES <sup>1</sup>	SUBDOMINANT SPECIES <sup>2</sup>
N/A	Ground	85%	<i>Juncus effusus</i>	<i>Osmunda cinnamomea</i> <i>Osmunda regalis</i> <i>Saururus cernuus</i>
N/A	Canopy	33%	<i>Acer rubrum</i>	<i>Persea palustris</i> <i>Quercus nigra</i>
N/A	Buffer	85%	<i>Pinus elliottii</i> <i>Spartina bakeri</i> <i>Myrica cerifera</i>	None

<sup>1</sup> Tree species must be greater than 12 feet in height and have been planted for greater than three (3) years.

<sup>2</sup> Plant species providing the same function as those listed may also be considered in determining success.

This criterion must be achieved within five (5) years of mitigation area construction. The Permittee shall complete any activities necessary to ensure the successful achievement of the mitigation requirements by the deadline specified. Any request for an extension of the deadline specified shall be accompanied with an explanation and submitted as a permit letter modification to the District for evaluation.

- D. Species composition of recruiting wetland vegetation are indicative of the wetland type specified in criterion "A."
- E. Density of trees surviving in the mitigation area equals or exceeds 400 trees/acre for trees greater than or equal to 12 feet in height.
- F. Coverage by nuisance or exotic species does not exceed five (5) percent.
- G. The wetland mitigation area can be determined to be a wetland or other surface water according to Chapter 62-340, F.A.C.

The mitigation area may be released from monitoring and reporting requirements and be deemed successful at any time during the monitoring period if the Permittee demonstrates that the conditions in the mitigation area have adequately replaced the wetland and surface water functions affected by the regulated activity and that the site conditions are sustainable.

- 7. The Permittee shall monitor and maintain the wetland mitigation areas until the criteria set forth in the Wetland Mitigation Success Criteria Conditions above are met. The Permittee shall perform corrective actions identified by the District if the District identifies a wetland mitigation deficiency.
- 8. The Permittee shall undertake required maintenance activities within the wetland mitigation areas as needed at any time between mitigation area construction and termination of monitoring, with the exception of the final year. Maintenance shall include the manual removal of all nuisance and exotic species, with sufficient frequency that their combined coverage at no time exceeds the Wetland Mitigation Success Criteria Conditions above. Herbicides shall not be used without the prior written approval of the District.
- 9. A Wetland Mitigation Completion Report shall be submitted to the District within 30 days of completing construction and planting of the wetland mitigation areas. Upon District inspection and approval of the mitigation areas, the monitoring program shall be initiated with the date of the District field inspection being the construction completion date of the mitigation areas. Monitoring events shall occur between March 1 and November 30 of each year. An Annual Wetland Monitoring Report shall be submitted upon the anniversary date of District approval to initiate monitoring.

Annual reports shall provide documentation that a sufficient number of maintenance inspection/activities were conducted to maintain the mitigation areas in compliance with the Wetland Mitigation Success Criteria Conditions above. Note that the performance of maintenance inspections and maintenance activities will normally need to be conducted more frequently than the collection of other monitoring data to maintain the mitigation areas in compliance with the Wetland Mitigation Success Criteria Conditions above.

Monitoring Data shall be collected semi-annually.

10. Termination of monitoring for the wetland mitigation areas shall be coordinated with the District by:
  - A. notifying the District in writing when the criteria set forth in the Wetland Mitigation Success Criteria Conditions have been achieved;
  - B. suspending all maintenance activities in the wetland mitigation areas including, but not limited to, irrigation and addition or removal of vegetation; and
  - C. submitting a monitoring report to the District one year following the written notification and suspension of maintenance activities.

Upon receipt of the monitoring report, the District will evaluate the wetland mitigation sites to determine if the Mitigation Success Criteria Conditions have been met and maintained. The District will notify the Permittee in writing of the evaluation results. The Permittee shall perform corrective actions for any portions of the wetland mitigation areas that fail to maintain the criteria set forth in the Wetland Mitigation Success Criteria Conditions.

11. Following the District's determination that the wetland mitigation has been successfully completed, the Permittee shall operate and maintain the wetland mitigation areas such that they remain in their current or intended condition for the life of the surface water management facility. The Permittee must perform corrective actions for any portions of the wetland mitigation areas where conditions no longer meet the criteria set forth in the Wetland Mitigation Success Criteria Conditions.
12. The Permittee shall, within 60 days of initial wetland impact and prior to beneficial use of the site, complete all aspects of the mitigation plan, including the grading, mulching, and planting, in accordance with the design details in the final approved construction drawings.
13. The construction of all wetland impacts and wetland mitigation shall be supervised by a qualified environmental scientist/specialist/consultant. The Permittee shall identify, in writing, the environmental professional retained for construction oversight prior to initial clearing and grading activities.
14. Wetland buffers shall remain in an undisturbed condition except for approved drainage facility construction/maintenance.
15. The following boundaries, as shown on the approved construction drawings, shall be clearly delineated on the site prior to initial clearing or grading activities:
  - A. wetland boundaries
  - B. wetland buffers
  - C. limits of approved wetland impacts

The delineation shall endure throughout the construction period and be readily discernible to construction and District personnel.

16. All wetland boundaries shown on the approved construction drawings shall be binding upon the Permittee and the District.
17. Rights-of-way and easement locations necessary to construct, operate and maintain all facilities, which constitute the permitted surface water management system, shall be shown on the final plat recorded in the County Public Records. Documentation of this plat recording shall be submitted to the District with the Statement of Completion and Request for Transfer to Operation Entity Form, and prior to beneficial occupancy or use of the site. The plat shall include the locations and limits of the following:
  - A. all wetlands
  - B. wetland buffers
18. Copies of the following documents in final form, as appropriate for the project, shall be submitted to the Bartow Regulation Department:
  - A. homeowners, property owners, master association or condominium association articles of incorporation, and
  - B. declaration of protective covenants, deed restrictions or declaration of condominium.

The Permittee shall submit these documents either: (1) within 180 days after beginning construction or with the Statement of Completion and as-built construction plans if construction is completed prior to 180 days, or (2) prior to any lot or unit sales within the project served by the surface water management system, whichever occurs first.
19. The following language shall be included as part of the deed restrictions for each lot:

"Each property owner within the subdivision at the time of construction of a building, residence, or structure shall comply with the construction plans for the surface water management system approved and on file with the Southwest Florida Water Management District (SWFWMD)."
20. The operation and maintenance entity shall submit inspection reports in the form required by the District, in accordance with the following schedule.

For systems utilizing retention or wet detention, the inspections shall be performed two (2) years after operation is authorized and every two (2) years thereafter.
21. The removal of littoral shelf vegetation (including cattails) from wet detention ponds is prohibited unless otherwise approved by the District. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp. Any questions regarding authorized activities within the wet detention ponds shall be addressed to the District's Surface Water Regulation Manager, Bartow Service Office.
22. This modification, Construction Permit No. 43021800.004, amends the previously issued Conceptual Permit No. 49021800.001, and Construction Permit No. 49021800.002, and all conditions are replaced by the conditions herein.
23. The Permittee shall notify the District of any sinkhole development in the surface water management system within 48 hours of discovery and must submit a detailed sinkhole evaluation and repair plan for approval by the District within 30 days of discovery.

24. The Permittee shall submit the original executed financial responsibility instrument to the District at the address below:
- Bartow Regulation Department  
Southwest Florida Water Management District  
170 Century Boulevard  
Bartow, FL 33830-7700
25. The Permittee shall provide the financial responsibility required by Rule 40D-4.301(1)(j), Florida Administrative Code until the District determines that the specific success criteria contained in this permit have been met; or the District approves a request to transfer the permit to a new owner and receives an acceptable substitute financial responsibility mechanism from the new owner.
26. The Permittee may request, in writing, a release from the obligation to maintain certain amounts of the financial assurance required by this permit as phases of the mitigation plan are successfully completed. The request shall include documentation that the mitigation phase or phases have been completed and payment for their completion has been made. Following the District's verification that the phase or phases have been completed in accordance with the mitigation plan, the District will authorize release from the applicable portion of the financial assurance obligation.
27. The Permittee's failure to comply with the terms and conditions of this permit pertaining to the successful completion of all mitigation activities in accordance with the mitigation plan shall be deemed a violation of Chapter 40D-4, Florida Administrative Code. In addition to other remedies that the District may have, the District may draw upon the financial responsibility instrument for any funds necessary to remedy a violation; upon such notice to the Permittee as may be specified in the financial responsibility instrument or if none, upon reasonable notice.
28. The Permittee shall notify the District by certified mail within 10 days of the commencement of a voluntary or involuntary proceeding:
- A. To dissolve the Permittee;
  - B. To place the Permittee into receivership;
  - C. For entry of an order for relief against the Permittee under Title XI (Bankruptcy), U.S. Code.
  - D. To assign of the Permittee's assets for the benefit of its creditors under Chapter 727, Florida Statutes.
29. In the event of bankruptcy or insolvency of the issuing institution; or the suspension or revocation of the authority of the issuing institution to issue letters of credit or performance bonds, the Permittee shall be deemed without the required financial assurance and shall have 60 days to reestablish the financial assurance required by Rule 40D-4.301(1)(j), Florida Administrative Code.
30. This permit is issued based upon the design prepared by the Permittee's consultant. If at any time it is determined by the District that the Conditions for Issuance of Permits in Rules 40D-4.301 and 40D-4.302, F.A.C., have not been met, upon written notice by the District, the Permittee shall obtain a permit modification and perform any construction necessary thereunder to correct any deficiencies in the system design or construction to meet District rule criteria. The Permittee is advised that the correction of deficiencies may require re-construction of the surface water management system and/or mitigation areas.

31. The following language shall be included as part of the deed restrictions for each lot:

As Lake Charlotte and Lake Ruth are sovereign water bodies, the extent of private ownership of the adjacent uplands extends only to sovereign submerged lands boundary of the lakes, unless ownership of the sovereign lands has been conveyed by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. A "Safe Upland Line" of 93.8 feet NGVD, which approximates that sovereign submerged lands boundary, was determined for Lake Charlotte and Lake Ruth by the Florida Department of Environmental Protection's Division of State Lands.

32. The following language is a condition of this permit and shall be included as part of the deed restrictions for each lot:

"Subsection 369.20 (8), Florida Statutes states 'a riparian owner may physically or mechanically remove herbaceous aquatic plants and semi-woody herbaceous plants, such as shrub species and willow, within an area delimited by up to 50 percent of the property owner's frontage or 50 feet, whichever is less...'. In addition, property owners may construct private docks within the cleared area, which are exempt pursuant to Rule 40D-4.051(12)(c), Florida Administrative Code. Otherwise, no owner of property within the subdivision may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, buffer areas, and drainage easements described in the approved permit and recorded plat of the subdivision, unless prior approval is received from the Southwest Florida Water Management District, Bartow Service Office. This restriction includes, but is not limited to the construction of seawalls, upland retaining walls, and the placement of riprap or other shoreline reinforcements. Future changes to the above mentioned statute and rule shall be applied to this restriction."

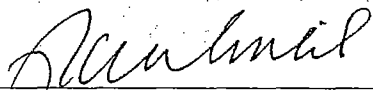
33. All construction activities within the primary and secondary eagle management zones of Bald Eagle nest site HI-026, as shown on the approved construction plans, shall be in accordance with the Habitat Management Plan (HMP) approved by the USFWS in a letter dated October 1, 2002, and consist of the following:

- A. No golf course or storm water pond construction activities will be conducted within the primary protection zone during the bald eagle nesting season, October 1 through May 15;
- B. Major construction, as defined in the approved plan, will not be conducted within the secondary protection zone during the bald eagle nesting season, October 1 through May 15;
- C. Construction activities will not continue into the nesting season unless specifically authorized by the USFWS. If the USFWS approves the construction activities during the nesting season, then nest site monitoring will be required and the protocol shown in the approved plan must be followed;
- D. At least 56 slash pine and oak trees within 400 feet of the nest tree will be maintained;
- E. Mowing of grass turf in the buffer area will be conducted only in the non-nesting season, May 16 to September 30;
- F. To discourage public access to the nest tree, a fence, hedgerow or other suitable barrier will be installed at the access corridor;
- G. Bald eagle nest awareness signs will be posted along the golf course holes adjacent to the storm water management pond; and
- H. A vegetative buffer consisting of shrubs and trees will be planted around selected portions of the greens and fairways of the golf course holes.

34. For dry bottom retention systems, the retention area(s) shall become dry within 72 hours after a rainfall event. If a retention area is regularly wet, this situation shall be deemed to be a violation of this permit.

**GENERAL CONDITIONS**

1. The general conditions attached hereto as Exhibit "A" are hereby incorporated into this permit by reference and the Permittee shall comply with them.

A handwritten signature in cursive script, appearing to read "D. A. Smith", is written above a horizontal line.

Authorized Signature

## EXHIBIT "A"

1. All activities shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications, shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. For general permits authorizing incidental site activities, the following limiting general conditions shall also apply:
  - a. If the decision to issue the associated individual permit is not final within 90 days of issuance of the incidental site activities permit, the site must be restored by the permittee within 90 days after notification by the District. Restoration must be completed by re-contouring the disturbed site to previous grades and slopes re-establishing and maintaining suitable vegetation and erosion control to provide stabilized hydraulic conditions. The period for completing restoration may be extended if requested by the permittee and determined by the District to be warranted due to adverse weather conditions or other good cause. In addition, the permittee shall institute stabilization measures for erosion and sediment control as soon as practicable, but in no case more than 7 days after notification by the District.
  - b. The incidental site activities are commenced at the permittee's own risk. The Governing Board will not consider the monetary costs associated with the incidental site activities or any potential restoration costs in making its decision to approve or deny the individual environmental resource permit application. Issuance of this permit shall not in any way be construed as commitment to issue the associated individual environmental resource permit.
4. Activities approved by this permit shall be conducted in a manner which does not cause violations of state water quality standards. The permittee shall implement best management practices for erosion and a pollution control to prevent violation of state water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
5. Water quality data for the water discharged from the permittee's property or into the surface waters of the state shall be submitted to the District as required by the permit. Analyses shall be performed according to procedures outlined in the current edition of Standard Methods for the Examination of Water and Wastewater by the American Public Health Association or Methods for Chemical Analyses of Water and Wastes by the U.S. Environmental Protection Agency. If water quality data are required, the permittee shall provide data as required on volumes of water discharged, including total volume discharged during the days of sampling and total monthly volume discharged from the property or into surface waters of the state.

6. District staff must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in offsite discharge or sediment transport into wetlands or surface waters, a written dewatering plan must either have been submitted and approved with the permit application or submitted to the District as a permit prior to the dewatering event as a permit modification. A water use permit may be required prior to any use exceeding the thresholds in Chapter 40D-2, F.A.C.
7. Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 7 days after the construction activity in that portion of the site has temporarily or permanently ceased.
8. Off-site discharges during construction and development shall be made only through the facilities authorized by this permit. Water discharged from the project shall be through structures having a mechanism suitable for regulating upstream stages. Stages may be subject to operating schedules satisfactory to the District.
9. The permittee shall complete construction of all aspects of the surface water management system, including wetland compensation (grading, mulching, planting), water quality treatment features, and discharge control facilities prior to beneficial occupancy or use of the development being served by this system.
10. The following shall be properly abandoned and/or removed in accordance with the applicable regulations:
  - a. Any existing wells in the path of construction shall be properly plugged and abandoned by a licensed well contractor.
  - b. Any existing septic tanks on site shall be abandoned at the beginning of construction.
  - c. Any existing fuel storage tanks and fuel pumps shall be removed at the beginning of construction.
11. All surface water management systems shall be operated to conserve water in order to maintain environmental quality and resource protection; to increase the efficiency of transport, application and use; to decrease waste; to minimize unnatural runoff from the property and to minimize dewatering of offsite property.
12. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District a written notification of commencement indicating the actual start date and the expected completion date.
13. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the occupation of the site or operation of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of that phase or portion of the system to a local government or other responsible entity.
14. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the required Statement of Completion and Request for Transfer to Operation Entity form identified in Chapter 40D-1, F.A.C. Additionally, if deviation from the approved drawings are discovered during the certification process the certification must be accompanied by a copy of the approved permit drawings with deviations noted.

15. This permit is valid only for the specific processes, operations and designs indicated on the approved drawings or exhibits submitted in support of the permit application. Any substantial deviation from the approved drawings, exhibits, specifications or permit conditions, including construction within the total land area but outside the approved project area(s), may constitute grounds for revocation or enforcement action by the District, unless a modification has been applied for and approved. Examples of substantial deviations include excavation of ponds, ditches or sump areas deeper than shown on the approved plans.
16. The operation phase of this permit shall not become effective until the permittee has complied with the requirements of the conditions herein, the District determines the system to be in compliance with the permitted plans, and the entity approved by the District accepts responsibility for operation and maintenance of the system. The permit may not be transferred to the operation and maintenance entity approved by the District until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall request transfer of the permit to the responsible operation and maintenance entity approved by the District, if different from the permittee. Until a transfer is approved by the District, the permittee shall be liable for compliance with the terms of the permit.
17. Should any other regulatory agency require changes to the permitted system, the District shall be notified of the changes prior to implementation so that a determination can be made whether a permit modification is required.
18. This permit does not eliminate the necessity to obtain any required federal, state, local and special District authorizations including a determination of the proposed activities' compliance with the applicable comprehensive plan prior to the start of any activity approved by this permit.
19. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40D-4 or Chapter 40D-40, F.A.C.
20. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the activities authorized by the permit or any use of the permitted system.
21. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under section 373.421(2), F.S., provides otherwise.
22. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of the permitted system or the real property at which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rule 40D-4.351, F.A.C. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.
23. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with District rules, regulations and conditions of the permits.
24. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the District and the Florida Department of State, Division of Historical Resources.
25. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

**ERP General Conditions  
Individual (Construction, Conceptual, Mitigation Banks), General,  
Incidental Site Activities, Minor Systems**

**Exhibit "F"**  
**Eagle Management Plan**



FISH AND WILDLIFE SERVICE  
South Florida Ecological Services Office  
1339 20<sup>th</sup> Street  
Vero Beach, Florida 32960



October 1, 2002

RECEIVED  
R 10-7-02 D

Randy L. Austin, M.S.  
Austin Environmental Consultants, Incorporated  
8 Broadway Avenue, Suite G  
Kissimmee, Florida 34741

Dear Mr. Austin:

The Fish and Wildlife Service (Service) has received your bald eagle (*Haliaeetus leucocephalus*) Habitat Management Plan (HMP) for the proposed Wolf Creek development project. A bald eagle nest, Florida Fish and Wildlife Conservation Commission (FWC) number HI-026, occurs within the 638-acre project site in Section 19, Township 35 South, Range 29 East, Highlands County, Florida. This letter transmits the Service's technical assistance regarding bald eagles on the site.

Bald eagles are vulnerable to disturbance early in the nesting season, during courtship, nest building, egg laying, incubation, and brooding (roughly the first 12 weeks of the nesting cycle). Disturbance during this critical period may lead to nest abandonment, or chilled or overheated eggs and young. Human activity near the nest later in the nesting cycle may cause premature fledgling, thereby reducing the likelihood of fledgling survival.

The Service and the FWC have agreed upon standard protection zones for bald eagle nests. The primary protection zone includes the area within a 750-foot radius of the nest tree, and the secondary protection zone includes the area extending 1,500 feet outward from the primary zone. Biologists analyze the best biological information available to determine if a proposed activity may adversely affect nesting bald eagles. Information analyzed may include: type of proposed activity, time of year and duration of proposed activity, amount of vegetative screening present, current disturbances in the nest area, and demonstrated tolerance of nesting eagles to disturbance.

The *Habitat Management Guidelines for the Bald Eagle in the Southeast Region* (Service 1987) provide recommendations to avoid adversely affecting the bald eagle during the nesting season. In general, development, land clearing, and use of chemicals toxic to wildlife are prohibited within the primary protection zone. Development activities proposed within the secondary protection zone should be restricted to the non-nesting period, May 16 through September 30.

Bald eagle nest HI-026 is located within a sparsely wooded area of improved pasture about 1,800 feet west of Sparta Road and 2,600 feet north of State Road 66. Winding Creek Road is located 900 feet west of the nest tree, and four abandoned houses and an abandoned barn are located approximately 900 feet southwest of the nest tree.

The proposed Wolf Creek development consists of 634 single-family homes and an 18-hole golf course. Plans call for approximately 90 homes and portions of nine golf course holes to be constructed within the secondary protection zone of the bald eagle nest. Portions of four golf course holes and a storm water management pond will be constructed within the primary protection zone.

As indicated in the bald eagle HMP, the developer proposes several measures to protect bald eagles within the primary protection zone. At least 56 slash pine and oak trees within 400 feet of the nest will be maintained. These trees should provide alternate nesting sites if the existing nest tree is damaged or destroyed by natural causes. Mowing of the grass turf in the buffer area will be conducted only in the non-nesting season, May 16 to September 30, to prevent the area from becoming overgrown with shrubs and reduce fire fuel load. To limit public access to the nest, a U-shaped stormwater management pond, approximately 100 feet wide, will be constructed along almost the entire perimeter of the 400-foot buffer area. A small corridor adjacent to the stormwater management pond will be maintained to allow access to the nest area during the non-nesting season. To discourage public access to the nest through this corridor during the nesting season, a fence, hedge row, or other suitable barrier will be installed. Bald eagle nest awareness signs will be posted along the golf course holes adjacent to the storm water management pond advising people not to approach the nest site. To further reduce disturbance to nesting eagles, a vegetative buffer consisting of shrubs and trees will be planted around selected portions of tees, greens, and fairways of the golf course holes. Moreover, no golf course or stormwater pond construction activities will be conducted within the primary protection zone during the bald eagle nesting season, October 1 through May 15.

The HMP also stipulates that major construction activities will not be conducted within the secondary protection zone during the bald eagle nesting season, October 1 through May 15, unless approved by the Service. Major construction activities are defined as exterior home construction (e.g., framing, roofing, siding), and installation of roads, stormwater ponds, and utilities. The developer will contact the Service by September 1 of any year where exterior house construction has begun within the non-nesting season and is not expected to be completed before the onset of the nesting season. Construction activities will not continue into the nesting season unless specifically authorized by the Service. The developer proposes that minor construction activities be allowed within the secondary protection zone during the nesting season. Minor construction activities are defined as home construction activities that do not result in excessive noise (e.g., indoor and outdoor painting, stucco application, installation of carpet etc.), landscaping, and utility hookups.

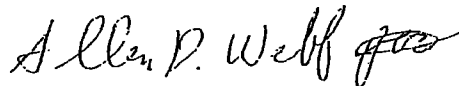
If the Service approves exterior house construction during the nesting season, nest site monitoring will be required to determine if construction activities are disturbing bald eagles.

The following bald eagle nest monitoring protocol should be followed.

- 1) Monitoring should begin no later than October 1 and continue through fledgling.
- 2) Initial monitoring of the nesting territory should be conducted a minimum of one day per-week to document the commencement of nest construction or reconstruction. Monitoring should be conducted for four consecutive hours each day beginning 30 minutes before sunrise. Because bald eagles may initially return to the nest site during midday, the nest site should be inspected in the afternoon to detect nesting eagles, droppings, or other evidence of nest use.
- 3) From the onset of nesting through four weeks post-hatching, nesting eagles should be monitored a minimum of three days each week. Monitoring should be conducted for four consecutive hours each day beginning 30 minutes before sunrise.
- 4) Nest monitoring frequency may be reduced to one day a week for the period five-week post hatching to fledgling. Monitoring should be conducted for four consecutive hours each day beginning 30 minutes before sunrise.

Based upon your commitment to minimize potential effects to the nesting eagles, the Service believes the proposed project will not increase risk to bald eagles nesting at HI-026. If the proposed work is modified, you should contact this office to determine if additional coordination is warranted. The Service has coordinated our technical assistance review and comments with the FWC in Tallahassee (Tom Logan). If you have any questions, please contact John Wrublik at (772) 562-3909, extension 282.

Sincerely yours,



Linda S. Ferrell  
Assistant Field Supervisor  
South Florida Ecological Services Office

cc:  
FWC, Tallahassee, FL (Tom Logan)  
FWC, Vero Beach, FL (Rick Brust)  
DEP, West Palm Beach, FL  
EPA, West Palm Beach, FL

HABITAT MANAGEMENT PLAN  
FOR BALD EAGLE  
*Haliaeetus leucocephalus*



Prepared By:

AUSTIN ENVIRONMENTAL CONSULTANTS, INC.

On behalf of:

J.E. Futch Custom Homes  
and  
Wolf Creek Partners

Submitted To:

United States Department of Interior Fish and Wildlife Service  
and  
Florida Fish and Wildlife Conservation Commission

## SITE LOCATION

The Wolf Creek property is located in Sections 17, 18, and 19, Township 35 South, Range 29 East in Highlands County, Florida. Specifically, Wolf Creek is bounded on the east by Sparta Road, on the south by State Road 66, and on the north by Lake Charlotte and Lake Ruth. The location of Wolf Creek is depicted in the Site Location Map, Exhibit 1.

### Bald Eagle Nest No. HI-026

Nest No. HI-026 has been active since at least 1995. The HI-026 nesting eagle pair has established themselves as seasonal residents, as they do not remain onsite during the non-nesting season.

### Site Conditions

The nest is located in a mature slash pine (*Pinus elliotii*), which is located in the central portion of the improved pasture area directly west of Sparta Road, see the aerial photograph provided as Exhibit 2. Several dozen other mature slash pines also occur in this area of the pasture. The nest tree is located approximately 1,800 feet west of Sparta Road and approximately 2,600 feet north of SR 66. Winding Creek Road lies approximately 900 feet to the west of the nest tree, and currently provides access to four single family residences within the project site.

A review of historic aerials revealed that the northern portion of the pasture was converted from scrub, while the southern portion was converted from an area of low flatwoods. The onsite pasture is currently dominated by bahia grass (*Paspalum notatum*) and several other pasture grasses. Within this open grass sward are various sedges and herbs, with scattered patches of saw palmetto. Several dozen pine trees within the pasture are located in the vicinity of the nest

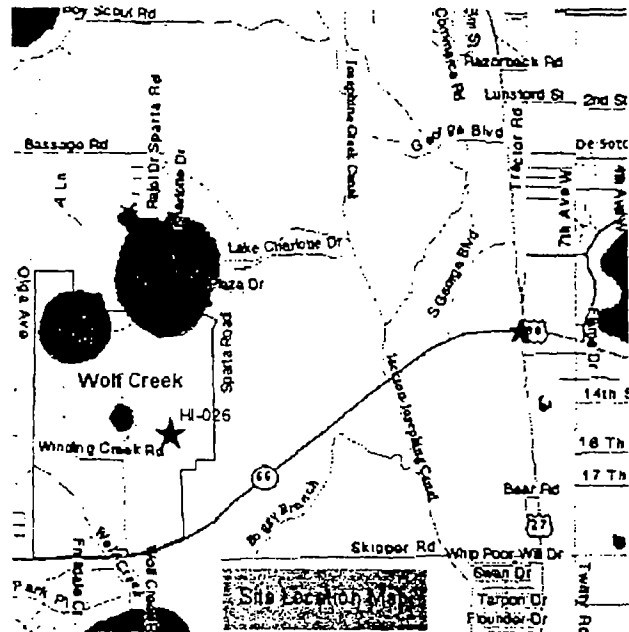
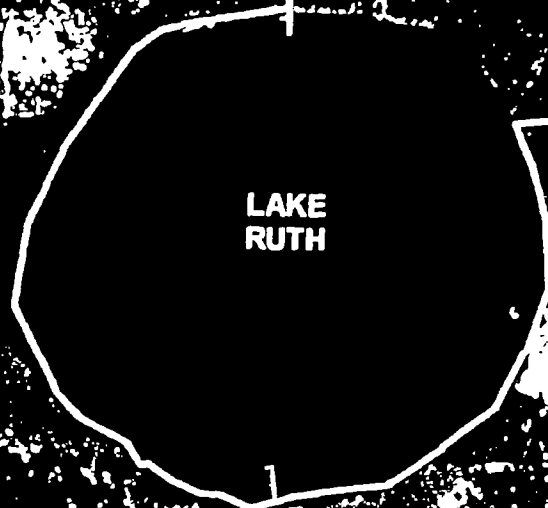


EXHIBIT 2



LAKE RUTH



LAKE CHARLOTTE



HI-026

750 FOOT PRIMARY ZONE

WOLF CREEK

SPARTA ROAD

STATE ROAD 66

tree. There is a barn located approximately 900 feet southwest of the nest tree. The eagles have demonstrated that they are unaffected by activities associated with the onsite cattle operations and other agricultural activities. There are only a few pine trees that lie between the nest tree and the onsite barn. From the nest site, the eagles have a direct line of sight to the barn, which has not affected the productivity of the nesting pair. Productivity information from the 95-96 nesting season to the 00-01 nesting season was obtained from the Florida Fish and Wildlife Conservation Commission (FFWCC). The information revealed that the eagle pair successfully produced two chicks every season except the 97-98 season, during which they still produced a single chick. The onsite nesting eagle pair has also demonstrated that they have become accustomed to some level of background noise. The nest tree is approximately 2,100 feet southwest of the Sparta Road Elementary School, which is located directly east of Sparta Road. During site inspections, it was observed that noise levels from children on the playgrounds as well as warning bells are clearly audible from the nest site. The school has been in operation for several years. The productivity of the HI-026 eagle pair shows that they have not been affected by the current level of activity or ambient noise levels.

#### Flight Paths

Surveys conducted during the 99-00 and 00-01 nesting seasons have identified that the primary feeding territory for the onsite eagle pair is Lake Charlotte. Their primary flight pattern is directly to the north from the nest site to Lake Charlotte, see Exhibit 3. These eagles regularly use trees located on the western and northern perimeter of Lake Charlotte for roosting. Approximately fifty percent of the shoreline of Lake Charlotte, primarily on the north and east sides of the lake, is developed with single-family residences. There are approximately twenty boat docks associated with the residences already present on Lake Charlotte, and recreational use of the lake has been observed regularly. This recreational use includes such activities as water skiing and fishing. The recreational activities within Lake Charlotte have not seemed to affect the foraging success of the HI-026 eagle pair. The secondary feeding territory for the HI-026 eagles is Lake Ruth. Both eagles have been observed flying from Lake Charlotte to Lake Ruth during feeding times in the morning and evening. The eagles have also been observed using a secondary flight path to the north-north-west from the nest site to fly directly to and from Lake Ruth.

EXHIBIT 3

LAKE CHARLOTTE

LAKE RUTH

PATH

HI-026

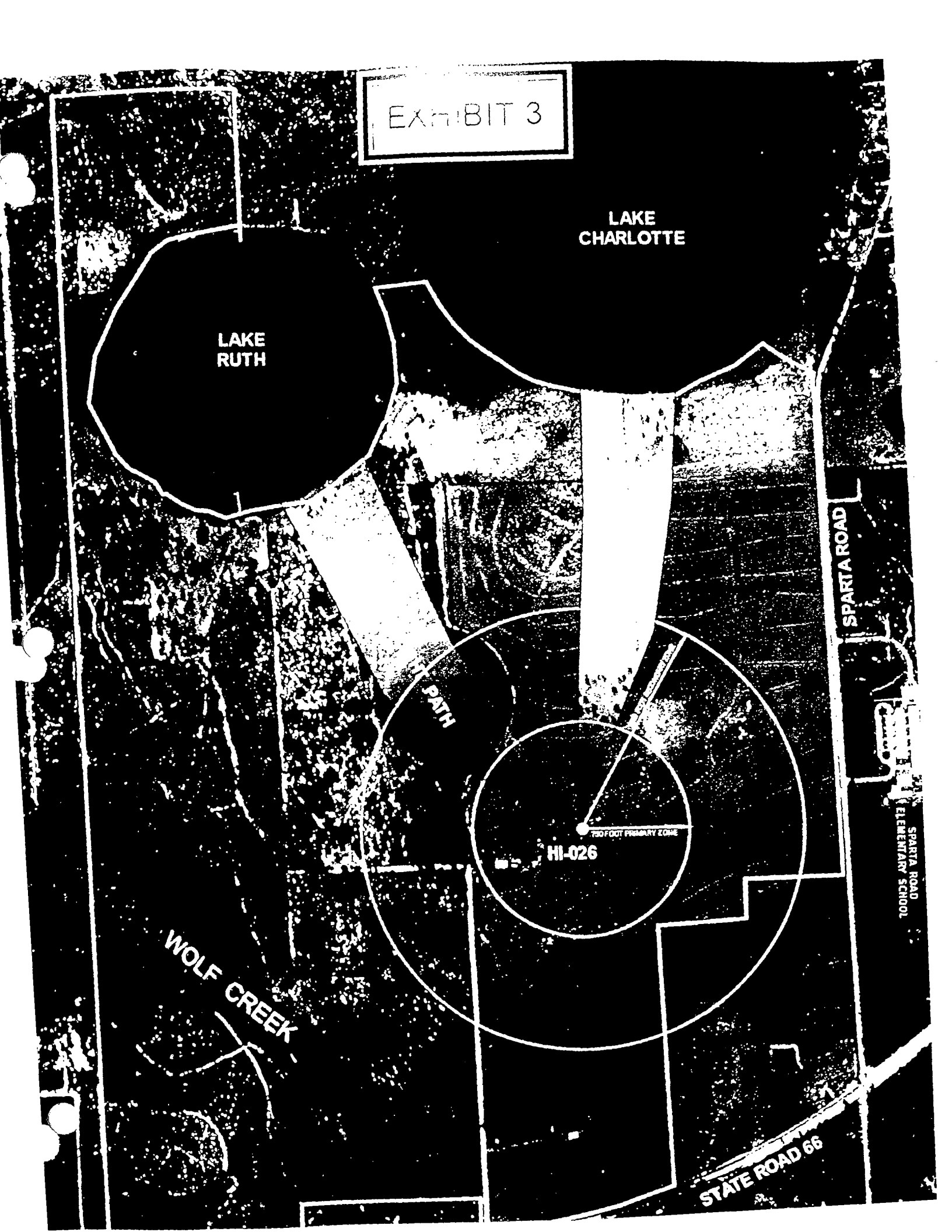
750 FOOT PRIMARY ZONE

WOLF CREEK

SPARTA ROAD

SPARTA ROAD  
ELEMENTARY SCHOOL

STATE ROAD 66



## Proposed Site Plan for the Wolf Creek Project

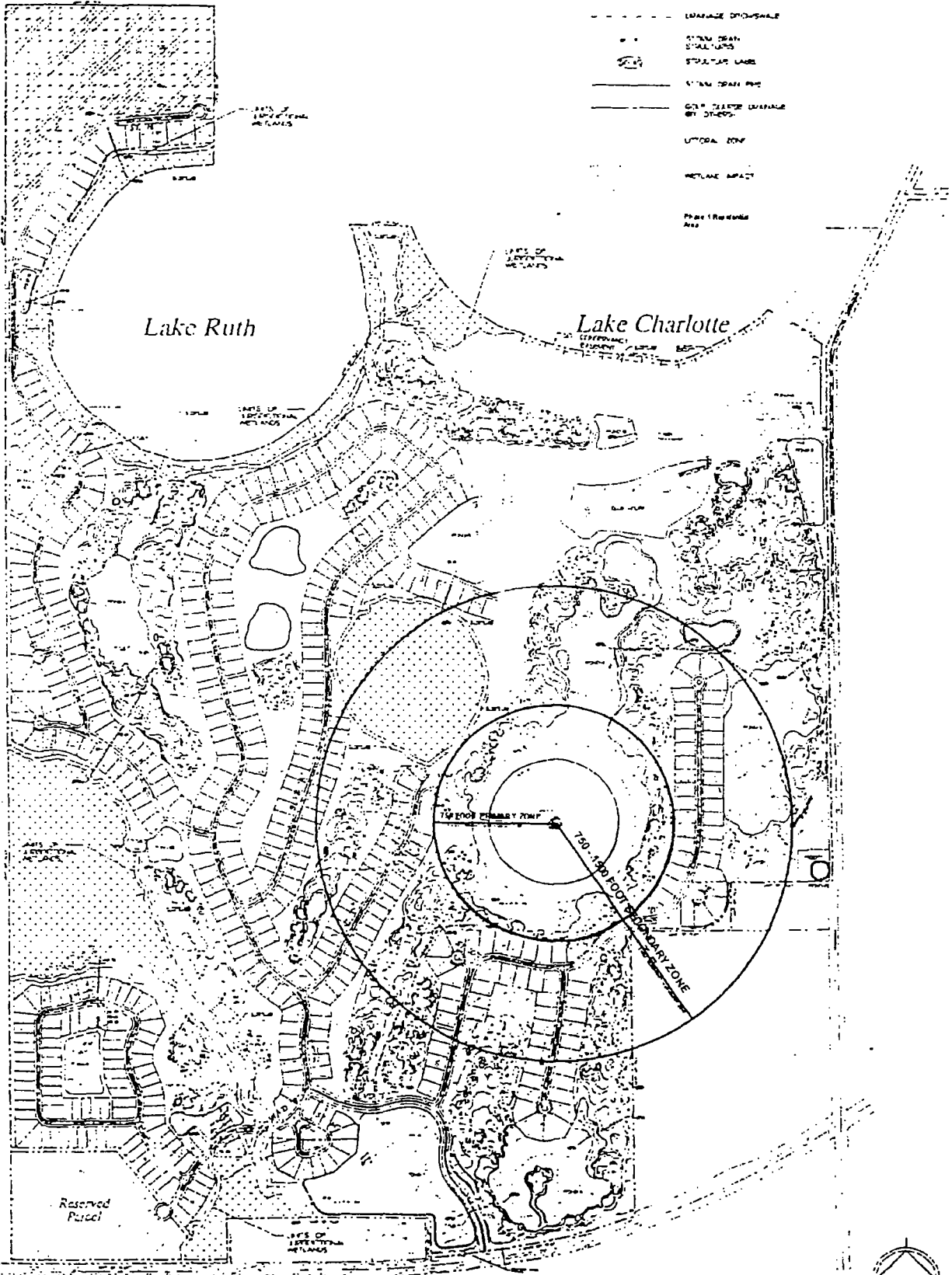
The Wolf Creek project is a 638-acre planned unit development located north of State Road 66 and West of Sparta Road in Sections 17, 18, and 19, Township 35 South, Range 29 East within Highlands County, Florida. The proposed development will ultimately have 634 single family homes and an 18-hole golf course along with a clubhouse amenity area, see Exhibit 4. A Development Order (DO) condition imposed on this project by Highlands County requires that the development comply with the provisions of the Florida Yard & Neighborhood (FY&N) program. It also requires that the FY&N program be incorporated into the Chemical Management Plan (CMP) that will be developed for the golf course. As a result of this DO condition, the maintenance and management of the landscaping, irrigation, and chemical application within the entire project, including residential yards, preserve areas and common areas, will be delegated to the Home Owners Association (HOA). The intent of the DO condition is to provide assurances that high water quality standards are maintained and to reduce and/or eliminate secondary impacts to onsite preserve areas, as well as onsite wildlife populations. Having a single entity responsible for landscape and yard maintenance, including residential lots, will allow for better control over maintenance activities and help assure against encroachments into preserved natural areas, both upland and wetland.

The developer has committed to having the proposed golf course within the Wolf Creek project be certified as an Audubon signature golf course. Therefore, the preservation of the onsite eagle nest has been a primary consideration during the design of the golf course, as well as the entire project site. The proposed site design was developed utilizing input and recommendations from USFWS personnel. Onsite and office meetings were held between Randy Austin of AEC and Jane Tutton of the USFWS to allow for agency input on a site plan that would adequately protect the integrity of the eagle nest site. Some of the many considerations include:

- Preservation of Flight Paths
- Prevent Physical Access to Nest Area
- Signage
- Preservation of Feeding Areas
- Preservation of Roosting Sites
- Visual Buffering

# EXHIBIT 4

- LOT LINE
- PART OF LOT LINE
- BLOCK CENTER LINE
- ===== LIMITS OF PLAT
- LEAKAGE DITCH/SHALE
- STREET DRAIN
- STORM DRAIN
- UTILITY DRAIN PIPE
- COLLECTOR DRAINAGE BY DITCHES
- UTTERA ZONE
- RETAINEMENT
- Phase I Reserved Area



- Ambient Noise Levels
- Building Heights
- Acclimation Period (i.e. Phasing of Development)
- Setbacks to Residential Areas
- Coordination of Construction Schedule with Nesting Season(s)

#### Primary Protection Zone (750 Foot Radius)

A primary protection zone with a radius of 750 feet has been established for the HI-026 nest site; see Exhibit 5 for a detail of this area. Within this 750 radius, no residential development will occur.

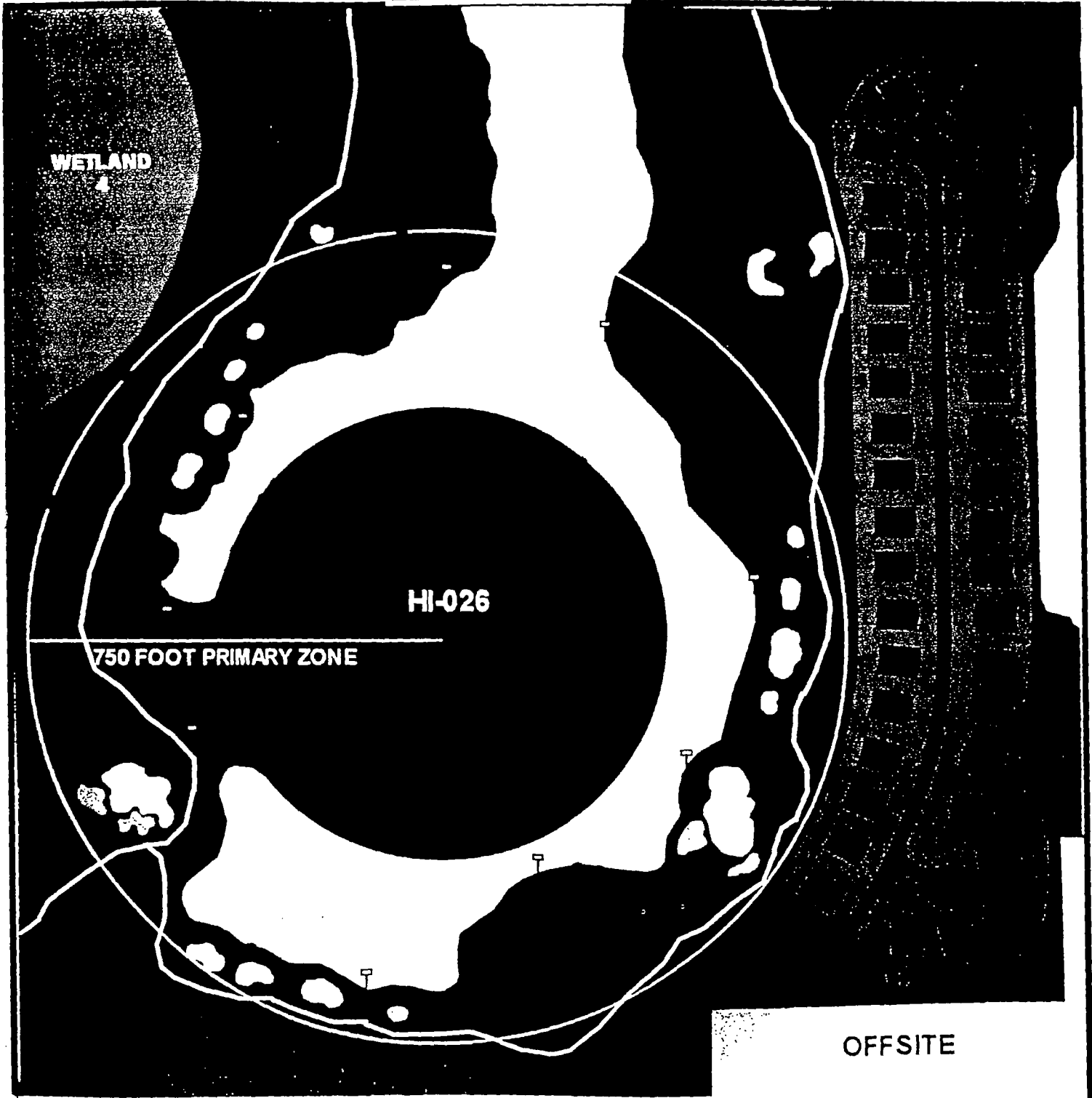
Due to the relatively low densities (less than 1 development unit per acre) proposed for the project site, and the large amount of natural areas that will be preserved on the site (64.5 acres of wetlands and 46 acres of uplands) utilization of the remaining property is very critical in order to maintain a project that will preserve the integrity of bald eagle nest site HI-026 and yet still be economically feasible. Therefore, certain site plan features and activities will occur within the primary protection zone of 750 feet. These include the construction and maintenance of a portion of a stormwater pond (Pond-4) and portions of four (4) golf holes; see the site plan provided as Exhibit 4.

#### Nest Buffer Area (400 Foot Radius)

A nest buffer area with a radius of 400 feet has been established around bald eagle nest site HI-026. This undisturbed buffer will remain exactly as it is in the pre-development condition. None of the surrounding 56 pine trees within the 400 foot radius will be removed. Mowing of the grass turf in this buffer area may occur on an annual cycle to prevent the growth of shrubs that would change the visual aspect of this area. Any mowing event would occur between May 16 and September 30, outside of the nesting season.

The outer perimeter of the nest buffer area will be defined by the top-of-bank of the stormwater management pond (Pond-4). This pond will protect the nest site by providing a physical barrier to access by residents, visitors, golfers and roaming pets.

WOLF CREEK  
EXHIBIT 5



DETAIL OF PRIMARY ZONE AREA AROUND HI-026

- = Existing Mature Pine or Oak Tree
- ⌚ = Eagle Information Sign

## Golf Activity Buffer (500 Foot Radius)

A buffer with a minimum radius of 500 feet has been established between bald eagle nest site HI-026 and surrounding golf activity areas. Portions of four (4) golf holes occur outside of this 500 foot radius, but partly within the 750 foot primary zone. This includes the tees for golf holes 8, 9, and 18, and the greens for golf holes 7 and 8. All golf course construction activities within the primary protection zone will occur outside of the nesting season (fledging of young to nest tending).

The golf course within the Wolf Creek project will be certified as an Audubon signature golf course. The golf course architect and the developer will work with Audubon to maximize the use of contouring and plantings to shield bald eagle nest site HI-026 from the golfing activity. In addition, the use of golf carts will be limited to electric carts. This will minimize ambient noise levels.

## Signage

Signs will be installed along the top of bank of the stormwater pond adjacent to golf areas that extend within the primary protection zone. These signs will identify the eagle preserve area and the need to minimize disturbances. Proposed signage is:

*"BALD EAGLE (*Haliaeetus leucocephalus*) Habitat Management Area. Please do not proceed beyond this point or approach the nest. Eagles may permanently abandon the nest and young if disturbed. Call the Florida Fish and Wildlife Conservation Commission for further information regarding this habitat or Bald Eagles and their ecology."*

## Flight Paths

### Northern Flight Path

Stormwater Pond-4 has been designed to provide two primary benefits to the nesting eagles. The first is to provide a physical barrier to protect the nest site, and the second benefit is to maintain and protect the existing northerly flight path from the nest site to Lake Charlotte. Pond-4 extends approximately 1,100 feet north of the nest buffer area with an average width of 250 feet. This will

provide a natural flight corridor for the eagles from the nest site north to Lake Charlotte. The presence of golf holes 9 and 18 on either side of this stormwater pond allowed the residential areas to be pushed back from this flight line in order to maintain a northerly flight corridor with a total width of 900 feet between vertical structures. The first vertical structure (clubhouse) will be a distance of approximately 1,900 feet or almost ¼ mile north of nest site HI-026. This clubhouse has been limited to 2 stories having a total height of no greater than 37-feet.

#### Northwest Flight Path

The northwest flight path crosses over Wetland 4 to Lake Ruth. This flight path has been kept free of residential development for a distance of 1900 feet or ¼ mile from nest site HI-026. The only man-made feature within the first ¼ mile of this flight path will be a set of tees approximately 600 feet northwest of nest site HI-026, see Exhibit 5.

#### Secondary Protection Zone (1500 Foot Radius)

A secondary protection zone that extends from the 750 foot primary protection zone to a radius of 1500 feet from nest site HI-026 has been established, see Exhibit 4. No vertical construction (i.e., exterior home construction) will be initiated on any platted residential lot within 1500 feet of HI-026 during the bald eagle nesting season (i.e., from nest tending to the fledging of eaglets, if any) unless specifically authorized by the USFWS. The Service shall be contacted by September 1 of any year in which exterior home construction that has commenced prior to the nesting season (i.e., from nest tending to fledging of eaglets, if any) is anticipated to continue into the nesting season. Monitoring protocol will be established in cooperation with, and must be agreed upon, by the Service.

Exterior construction of homes within 1500 feet of HI-026 should be maximized during the non-nesting season. Therefore, exterior construction activities should be initiated as soon as any young have fledged. Exterior home construction means, framing, roofing and application of siding, excluding painting and stucco application. Minor infrastructure improvements (i.e., road paving, striping), interior home construction and residential lot finish work (utility hook-up irrigation system, landscaping, etc.) may occur within this area

during the nesting season (i.e., from tending of HI-026 to fledging of eaglets, if any).

#### Phasing of Development

The developer of the Wolf Creek project has based the development schedule on the construction of approximately 40 residential lots per year. J.E. Futch Custom Homes has been operating in the Sebring area for more than 10 years and has a very good familiarity with the local housing market.

With a total of 634 residential lots being proposed, it is expected that the Wolf Creek project will take more than 15 years to complete. Phase 1 of the Wolf Creek project represents 80 lots, the clubhouse and golf course, and the stormwater management system. Phase 1 has a projected 2 year build-out period, see Exhibit 4.

At the project build out schedule of 40 residential lots per year, the onsite bald eagles are expected to have ample time (up to 15 years) to acclimate to the changing site conditions from improved pasture and native land to a golf course residential community.

#### Preservation of Feeding and Roosting Areas

The primary feeding and roosting areas of the HI-026 bald eagles are Lake Charlotte and Lake Ruth. Considerable effort went into the site planning of the Wolf Creek project to account for the preservation of these critical areas.

The site plan for Wolf Creek clearly shows the effort that went into preserving the feeding and roosting areas at Lake Charlotte and Lake Ruth. A total of only 15 residential lots have been provided with direct lake frontage along the southern waterfront of Lake Charlotte. Lake Charlotte already has numerous existing residential houses along the northern and eastern lakefront areas. The western lakefront area of Lake Charlotte has no lakefront lots. This area, which represents a natural connection to Lake Ruth, has been kept free of residential lots. In addition to protecting the connection between Lake Charlotte and Lake Ruth, the Wolf Creek site plan maintains the entire fringing swamp system around the perimeter of Lake Ruth. There are NO residential lots platted through the fringing swamp areas and to the water line of Lake Ruth. This was

a huge financial consideration for the developer, but was considered critical to the preservation of critical eagle feeding and roosting habitat.

In addition to the preservation of the lakefront around Lake Ruth, the developer has committed, and agreed to a development order condition by Highlands County, that prohibits motorized watercraft on Lake Ruth. Boats on Lake Ruth will be limited to electric, manual and wind propelled craft. This moratorium on motorized craft will protect and preserve the pristine setting and tranquility of Lake Ruth.

**EXHIBIT "G"**  
**Scrub Management Plan**

**Scrub Habitat Preservation Area**

The perimeter of the of the scrub habitat Preservation Area shall be posted with 24 inch by 24 inch metal signs set on approximately 5-ft. high metal posts. The signs will be maintained by the Association, and will provide the following information:



**Scrub Habitat Management Plan**

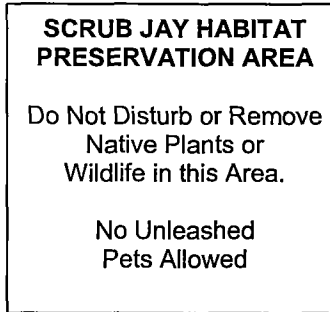
The purpose of this scrub habitat management plan is to 1) mitigate for proposed scrub habitat impacts associated with the development of Highland Lakes Reserve; 2) identify the land management activities that will be necessary to preserve, protect and restore the onsite natural communities in order to benefit listed scrub species survival and 3) to develop a framework for ensuring the perpetual management and development of a long-term ecological stable maintenance plan. It is anticipated that the implementation of this plan will ensure the long-term survival of the preserve habitat area and rehabilitant adjacent habitat areas that have been set aside for the expansion of the existing sand and blue-tail mole skink populations contained within the Preservation Area. Enhancement of the scrub Preservation Areas will also benefit associated scrub flora and fauna species. The Preservation Areas for wildlife will be managed as follows:

- A minimum 10 ft. wide fire protection lane will be established along the outer edge of the identified scrub Preservation Areas. The perimeter fire lane will provide access for equipment and establish a definable boundary for the scrub Preservation Areas.
- Maintain any existing old roadways within the Preservation Area to facilitate interior control burn management blocks. This is particular important for scrub area #2, which is the larger Preservation Area.
- Prior to starting construction of utility and interior road alignments, all sand pine (*Pinus clausa*) will be clear cut. Each of the designated scrub Preservation Areas will be burned to 1) remove all sand pine "slash" material; 2) reduce existing shrub canopy cover, 3) remove accumulated litter on the sandy soil surface and 4) reduce any future wildfire hazards to the adjacent residential areas. The control burns will be conducted in accordance with Florida Department of Forestry (DOF) management criteria and under DOF approved burn permits, dependant upon prevailing winds and climatic conditions. All burns will be supervised by a DOF certified burn manager. The management goal is to create and maintain a low scrub habitat condition with a 10 to 15% tree overstory comprised mostly of sand live oaks (*Quercus virginiana* var. *germinata*) and scattered slash pines (*Pinus elliotii*).
- Following the initial burn, additional habitat maintenance control burns and/ or hand harvesting for the removal and maintenance of shrub canopy species will be conducted on an approximate four to five year rotation basis, depending upon habitat overstory growth conditions.

## **EXHIBIT "G" (continued)**

### **Scrub-Jay Preservation Area**

The perimeter of the scrub-jay Preservation Area shall be posted with 24 inch by 24 inch metal signs set on approximately 5-ft. high metal posts. The signs will be maintained by the Association, and will provide the following information:



### **Scrub-Jay Habitat Management**

The Association shall cause the scrub-jay Preservation Area to be mowed at least three times per year. Mowing is determined to be the most effective management approach because the dominant vegetation within this habitat area is bahiagrass pasture.

- Mowing will assist in maintaining the low growth characteristics of the area and help reduce biomass build-up, which would reduce the existing open sandy thatching areas utilized by the birds.
- Mowing will be performed during the months of February, July and November.
- No tree or shrub removal will occur within the Preservation Area.
- The cost of mowing will be paid by the Association.
- Owners shall restrict domestic pet activity outside of their Parcels without proper animal restraints. Domestic cats are prohibited outside of residences.

### **Responsibility for Maintenance and Management**

All costs of maintaining and managing the scrub Preservation Area according to the terms of the Declaration, this management plan and any conservation easement shall be the responsibility of the Association.