

(XREF AGR 2007-039)



**DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS**

FOR:

HIDDEN WATERS SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 5th day of June, 2007, by RISKALL, LLC, UP THE CREEK PARTNERS, Michael K. Sprague, Mary E. Sprague and Gregory F. & Loretta L. Weyers.

WITNESSETH:

WHEREAS, RISKALL, LLC, UP THE CREEK PARTNERS, Michael K. Sprague, Mary E. Sprague and Gregory F. & Loretta L. Weyers are the fee simple owners of certain real property lying and being situated in Charlotte County, Florida, and being more fully described on Exhibit "A" attached hereto and made part hereof;

WHEREAS, all of the fee simple owners have assigned the right to develop the property and administer these declarations described in Exhibit "A", to RISKALL, LLC.

WHEREAS, the Developer desires to establish, by virtue of this Declaration of Covenants, Conditions and Restrictions, a general plan for the development, use, operation, maintenance and administration of a residential community to be created on the property, including the Easements and Roadways located thereon, to be known as Hidden Waters Subdivision in order to preserve and enhance the property values, to provide for the protection of the surrounding environment; and

WHEREAS, the Developer desires to create an entity to exercise the functions necessary to implement the covenants, conditions and restrictions set forth herein. The entity created to fulfill those purposes, HIDDEN WATERS PROPERTY OWNERS ASSOCIATION, INC. is incorporated under the laws of the State of Florida as a not-for-profit corporation, but shall not be deemed to be a "Condominium Association" within the meaning of the Florida Condominium Act, Chapter 718, Florida Statutes, as amended from time to time.

NOW, THEREFORE, in consideration of the premises and covenants herein contained, the Developer hereby declares that the property shall be occupied, held, transferred, sold, and conveyed subject to the following covenants, conditions, easements, and restrictions, all of which shall run with the land and be binding upon, and inure to the benefit and burden of, the Developer, its grantees, successors and assigns, and upon any person which shall hereinafter acquire or own an interest in and to any portion of the property and any improvements located thereon as well as the grantees, heirs, successors, successors-in-title, executors, administrators, personal representatives, devisees and assigns thereof.

ARTICLE I
DEFINITIONS

Section 1.1 Definitions. The following words when used in this Declaration shall, unless the context shall otherwise indicate, have the following meanings:

A. "Architectural and Landscaping Standards" shall mean and refer to the rules, regulations, standards, and criteria promulgated by the Architectural Review Board ("ARB") and as adopted by the Developer or the Board of Directors of the Association, as the case may be, as the same may be amended from time to time.

B. **“Architectural Review Board”** shall mean and refer to the not less than one (1) nor more than three (3) persons who shall serve at the pleasure of the Board of Directors of the Association for the purpose of administrating the Architectural and Landscaping Standards for the Property.

C. **“Articles”** means the Articles of Incorporation of the Association, a copy of which is attached hereto as “Exhibit B”, and incorporated herein by reference.

D. **“Assessment”** shall mean and refer to actual and estimated expenses incurred by the Association for the general benefit of the Owners, including any reasonable reserves pursuant to this Declaration, including without limitation expenses incurred with respect to the Easements and Roadways.

E. **“Association”** shall mean and refer to HIDDEN WATERS PROPERTY OWNERS ASSOCIATION, INC. a Florida nonprofit corporation, and any successor thereof.

F. **“By-Laws”** means the By-Laws of the Association, a copy of which is attached hereto as “Exhibit C” and incorporated herein by reference.

G. **“Developer”** shall mean and refer to RISKALL, LLC, UP THE CREEK PARTNERS, Michael K. Sprague, Mary E. Sprague and Gregory F. & Loretta L. Weyers, its successors and assigns.

H. **“Declaration”** shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for HIDDEN WATERS SUBDIVISION, together with any Amendments or Supplements thereto. This Declaration is not intended to, and does not create a Condominium within the meaning of the Florida Condominium Act, Chapter 718, Florida Statutes, as the same may be amended from time to time.

I. **“Development”** shall mean and refer to the Property, together with all Easements and Roadways located thereon.

J. **“Development and Construction Term”** shall have the same meanings as defined in the Zoning and Building ordinances and regulations enacted and promulgated from time to time by Charlotte County, Florida. In the absence of individual definitions in said zoning and building regulations, specific terms shall take on the meanings customary to the construction industry in Charlotte County, Florida.

K. **“Easements”** shall mean such easements as are created by this Declaration or the recorded plat of HIDDEN WATERS SUBDIVISION including but not limited to roadway, pedestrian, utility, and drainage easements.

L. **“Entrance Gate”** shall mean the entrance gate constructed by the Developer.

M. **“Lot”** shall mean a portion of the Property intended for use and occupancy as a single family residence

N. **“HIDDEN WATERS SUBDIVISION”** shall mean and refer to the Property.

O. **“Member”** shall mean and refer to those persons entitled to membership in the Association.

P. **“Mortgage”** shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument.

Q. **“Mortgagee”** shall mean and refer to any person or legal entity who is the holder of a mortgage, deed of trust, deed to secure debt or any other form of valid security instrument which encumbers land in HIDDEN WATERS SUBDIVISION.

R. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee or undivided fee interest in any Lot located within the Property, including the Developer, abut shall not mean or refer to any mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure, any proceeding in lieu of foreclosure, or otherwise.

S. "Person" shall mean and refer to a natural person, corporation, a partnership, a trustee or any other legal entity.

T. "Property" shall mean and refer to the real property described in Exhibit "A" attached hereto, according to the plat thereof as recorded in the Public Records of Charlotte County, Florida.

U. "Recreational Facilities" shall mean the facilities that the Developer elects to construct in the Developer's sole and absolute discretion in the common areas shown on the subdivision plat for HIDDEN WATERS SUBDIVISION.

V. "Roadways" shall mean and refer to the private roads located within Hidden Waters Subdivision.

W. "Rules and Regulations" shall mean and refer to any and all rules and regulations which are duly promulgated by the Developer or the Association pursuant to this Declaration, the Articles of Incorporation and/or the Bylaws of the Association.

X. "Surface Water Management Facilities" shall mean and include, but are not limited to, all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, flood plain compensation areas, wetlands and any associated buffer areas, and wetland mitigation areas.

Y. "Tract" shall mean a portion of the Property identified as a tract on the plat of HIDDEN WATERS SUBDIVISION.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION

Section 2.1. Property Subject to this Declaration. The Property, together with any improvements now or hereafter constructed thereon, shall be occupied, held, transferred, sold and conveyed subject to this Declaration. Any Tracts located within the subdivision as identified on the plat of HIDDEN WATERS SUBDIVISION shall be conveyed by the Developer to the Association on or before the turnover of the Association set forth in Section 4.4.

ARTICLE III
EASEMENTS

Section 3.1. Owner and Third Party Easements of Access, Use and Enjoyment. There are hereby created the following perpetual easements in HIDDEN WATERS SUBDIVISION:

A. Each and every Owner, Mortgagee and the Association shall have, in common with all Owners, a perpetual, non-exclusive easement for pedestrian and vehicular access and the use and enjoyment in and to the Roadways.

B. Each Owner, the Association and the Southwest Florida Water Management District, a state agency, shall have a non-exclusive easement for storm water retention and drainage over and across the drainage easements shown on the subdivision plat and more specifically described as the drainage and storm water discharge facilities shown on the construction plans for HIDDEN WATER SUBDIVISION, prepared by Mary E. Sprague, P.E., comprising sheets 1 through 12 inclusive, and any modifications or amendments thereto required by local, state, or federal government agencies having jurisdiction thereof.

C. The Association and public and private utilities shall have a non-exclusive perpetual easement for the construction, maintenance, repair, and reconstruction of utility services across the roadways, which utility shall include water, sewage, electricity, telephone, cable TV and emergency and other governmental services to HIDDEN WATERS SUBDIVISION and to the real property legally described in Exhibit "A".

D. Such other easements as are shown on the plat of HIDDEN WATERS SUBDIVISION as recorded in the Public Records of Charlotte County, Florida.

E. Such other easements as may be required by local, state, and/or federal agencies in order to obtain building permits for individual Lots in the subdivision. All of the foregoing being collectively described hereinafter as "the Easements" and;

F. The owner of the real property legally described in Exhibit "A" shall have a non-exclusive ingress and egress easement for vehicular and pedestrian purposes over the Roadways, Easements, and Entrance Gate.

The above-described Easements shall be non-exclusive and shall run with ownership of each and every Lot and they shall not be conveyed, devised, encumbered, or otherwise dealt with separately from a Lot. The Easements are subject to:

1. This Declaration and any restrictions or limitations contained in any deed conveying any portion of such Property to the Association.
2. The rights of the Association, in accordance with its Articles of Incorporation and Bylaws and the powers granted to such an Association pursuant to Chapter 617, Florida Statutes (1999), as amended, to borrow money for the purpose of maintaining, reconstructing and improving the Roadways, Easements, and Entrance Gate, and in furtherance thereof, by mortgaging said Roadways, Easements, and Entrance Gate, which mortgage may provide that the rights of any mortgagee of the Property shall be superior to the rights of the Owners hereunder.
3. The right of the Developer to take such steps as are reasonably necessary or desirable to protect the Roadways, Easements, and Entrance Gate from and against damage, destruction and foreclosure.
4. The right of the Developer to grant an easement on all or any part of the Roadways, Easements, and Entrance Gate to any public agency, authority, telephone, cable television company, other public or private utility, or the owner of the real property legally described in Exhibit "A" for such purposes and subject to such conditions as may be agreed to by the Developer.
5. The right of the Developer and/or the Association to adopt reasonable Rules and Regulations regulating the use and enjoyment of said Roadways, Easements, and Entrance Gate or restricting the use and enjoyment thereof for failure to pay any assessments owed by Owners or other violations of this Declaration, the Articles of Incorporation or the Bylaws of the Association with respect to the Roadways, Easements, and Entrance Gate.

Section 3.2. Delegation of Use. Any Owner may delegate his right of enjoyment in the Roadways, Easements, and Entrance Gate to his lessee, the members of his family, his bona fide guests and invitees, subject to such Rules and Regulations as may be established from time to time by the Developer and the Association, as the case may be.

Section 3.3. Rules and Regulations. The Developer and the Association, as the case may be, shall have the right to adopt, modify, amend and terminate the Rules and Regulations for the use of the Roadways, Easements, Entrance Gate, Boat Dock and any amenities located thereon.

ARTICLE IV
THE ASSOCIATION

Section 4.1 Governance of Affairs. The Association is a not for profit corporation incorporated under the laws of the State of Florida and charged with the duties and empowered with rights set forth herein. The affairs of the Association shall be governed by this Declaration and the Association's Articles of Incorporation and its Bylaws.

Section 4.2 Membership. The Association shall have two classes of membership:

A. Class A Membership. Each owner, including the Developer after termination of the Class B membership, shall automatically be a Class A Member of the Association upon the recording of a document transferring title to a lot to that person. A Class A Membership is appurtenant to the ownership of each lot in the subdivision and shall not be separable from the ownership of any lot in the subdivision.

B. Class B Membership. The Developer shall be the sole Class B Member of the Association, provided that said Class B Membership shall cease and terminate upon the earlier of:

- (1) the delivery by the Developer to the Association of written notice that Developer irrevocably terminates and cancels its Class B Membership;
- (2) the Developer no longer holds title to, or any interest in, any portion of the subdivision;
- (3) all development obligations of the Developer have been completed and eighty percent (80%) of all lots within the subdivision have been sold and conveyed by developer.

Section 4.3 Voting. Voting by Members in the affairs of the Association shall be as follows:

A. Number of Votes.

- (1) Each Class A Member shall collectively be entitled one (1) vote for each lot of which such member is the Owner.
- (2) The Class B Member shall entitled to a number of votes equal to five (5) votes for each lot of which the Developer is the owner.

Section 4.4. Turnover of Association. Within ninety days after conversion of Class B Membership into Class A Membership, a meeting shall be held at which the Developer shall formally relinquish control of the Association and the Class A Members will be entitled to elect not less than a majority of the members of the Board of Directors of the Association; subject, however, to the Developer's right to elect not less than one (1) member of the Board of Directors of the Association for as long as the Developer holds for sale in the ordinary course of business at least one Lot in the Property and further subject to certain limitations on actions affecting the Developer as long as it owns any Lots, as set forth by the Bylaws.

Section 4.5. Change of Membership. Change of membership in the Association shall be established by recording a deed (or other instrument establishing a fee interest in any Lot in the Property) in the Public Records at which time the membership of the prior owner is terminated. The prior Owner shall notify the Association of the proposed transfer of ownership. The new Owner shall furnish the Association with a certified copy of the deed (or other instrument) within thirty (30) days after transfer of ownership.

Section 4.6. Dissolution of Association. In the event of dissolution of the Association, except upon the vote of all Members entitled to vote as provided in the Articles of Incorporation, any Owner or the Association may petition a court of competent jurisdiction for the appointment of a receiver to manage the affairs of the dissolved Association, including reinstatement of the Association as an active Florida corporation. However, if the Association ceases to exist, all lot owners shall be jointly and severally responsible for operation and maintenance of the stormwater system and other amenities provided for in this document.

ARTICLE V
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

The association shall have the following rights and obligations:

Section 5.1. Roadways, Easements, and Entrance Gate. The Association, subject to the rights and obligations of the Owners set forth in this Declaration, shall be responsible for the management, maintenance, repair, reconstruction and control of the Roadways, Easements, and Entrance Gate, and all improvements thereon, and shall keep same in good, clean, attractive, and sanitary condition, order, and state of repair, pursuant to the terms and conditions hereof.

Section 5.2. Personal Property and Real Property. The Association may acquire, hold, dispose of fee or leasehold interest in tangible and intangible personal property and real property on its own accord or by acceptance of such property interest conveyed to it. The Association shall be responsible for the management, maintenance, and repair of all real property and personal property owned by it.

Section 5.3. Rules and Regulations. The Association may make and enforce reasonable rules and regulations governing the use of the Roadways, Landscape Buffers, Easements, Entrance Gate, and other Association property, which rules and regulations shall be consistent with the rights and duties established by this Declaration and by the Association's Articles of Incorporation and Bylaws. The Association shall have the power to seek damages and/or injunctive or other equitable relief in any court to enjoin violations or to abate nuisances.

Section 5.4. Books and Records. The Association shall make available to Owners and their respective mortgagees, and to holders, insurers or guarantors of any Mortgage on all or a portion of the Property current copies of the Declaration, Bylaws and Articles of Incorporation of the Association, any rules concerning the Property and the books, records, estimated budget for the current and, if available, upcoming fiscal year and Association financial statements for the preceding fiscal year. The Association shall furnish copies of such items at its cost or make such items available for inspection during normal business hours or under other reasonable circumstances within ten (10) days after receipt of written notice therefore.

Section 5.5. Other Material Matters. Upon written request identifying the name and address of the person making the request and the name and address of the Owner of the Lot, any Owner of any interest in, or the holder of Mortgage, or the insurer or guarantor of a Mortgage, on a Lot shall be furnished with all pertinent information known to the Association as to:

- A. Any condemnation loss or casualty loss which affects a material portion of the Property or the Lot;
- B. Any assessment(s) or charge(s) attaching to such Lot, which remain uncured for over sixty (60) days;
- C. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- D. Any proposed action which would require the consent of a specified percentage of Owners and/or mortgage holders.

Section 5.6. Implied Rights. The Association may exercise any right, responsibility, discretion or privilege expressly provided to the Association and every other right or privilege which may be reasonably implied from the existence of any such express right or privilege or reasonably necessary to effectuate any such right or privilege, all of which rights and privileges, express or implied, shall be exercised through its Board of Directors, which may delegate and assign the performance of, but not the responsibility or liability for, certain duties and responsibilities to its officers, directors, agents and employees.

ARTICLE VI
MAINTENANCE AND OPERATIONS OF ROADWAYS, EASEMENTS, AND ENTRANCE GATE, AND COVENANT FOR ASSESSMENTS THEREFOR

Section 6.1. Operation and Maintenance of Roadways, Easements, and Entrance gate. The Owners and Association shall operate, maintain, repair and reconstruct the Roadways, Easements, and Entrance Gate. Developer shall pay that portion of the common Expenses which exceeds the amount assessed the other Owners until the date of conveyance of the last Lot. Developer shall be excused from payment of any assessment so long as it pays that portion of the Common Expenses incurred during the period which exceeds the amount assessed against other Owners. For purposes of this calculation, replacement reserves or capital expenditures shall not be considered as common expenses.

Section 6.2. Assessments

A. Commencing on the date of conveyance of each Lot and for each calendar year thereafter, each Owner of a Lot (except Developer) by acceptance of a deed or other instrument creating an interest in a Lot, whether or not it shall be so expressed in any such deed or other conveyance shall be deemed to covenant and agree, to pay to the Association:

- 1) Annual assessments for anticipated current maintenance expenses;
- 2) Special assessments for capital improvements; and
- 3) Capital reserve assessments, all such assessments to be fixed, established and collected from time to time as hereinafter provided.

B. The Association may levy assessments in accordance with this Declaration which shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in HIDDEN WATERS SUBDIVISION, in connection with their use and enjoyment of the Roadways, Easements, and Entrance Gate including, but not limited to, the payment of ad valorem and personal property taxes, water, power and other utilities, insurance premiums (including premiums for liability and hazard insurance) and debt service on mortgages, if any, maintenance, repair, replacement and additions to the Roadways, Easements, Entrance Gate, Recreational Facilities, and other amenities, including painting and repair of walls and/or fences, pruning, fertilizing, cutting, weeding and replacement of exterior landscaping the cost of labor, equipment, materials, management and supervision of and for the Roadways, Easements, Entrance Gate or for creating reserves for such purposes.

Section 6.3. Amount and Payment of Annual Assessment

A. The Association shall, prior to January 1st of each year, fix the amount of the annual assessment at a sum sufficient to pay the anticipated costs of maintaining and operating the Roadways, Easements, Wall, Entrance Gate, Stormwater System, Street Lights, Recreational Facilities and other common elements as contemplated by this Article and any share of the aggregate assessment chargeable to each Lot shall be that proportion that one Lot has to the total number of Lots in the Development (except that the Developer is excused from such payments). If the Developer elects to construct a Community Boat Dock or Fishing Pier, the annual assessment for all lot Owners shall include an additional assessment for the maintenance, repair, and reconstruction of any such structures.

B. Written notice of the annual assessment shall be sent to every Owner subject thereto and the due date shall be established by the Association, which may be monthly, quarterly or on an annual basis. The Owner shall pay the Owner's prorated share of the assessment fee based upon the time period during which closing on the Owner's Lot occurs.

Section 6.4. Capital Reserve Fund. The Association may include in the annual assessments a capital reserve fund for capital expenses, which must be segregated from general funds held by the Association, and which shall be in such amount as the Association deems necessary for maintenance and repair of the Roadways, Easements, Wall,

Entrance Gate, Stormwater System, Street Lights, Recreational Facilities and other common elements. The Association may include other reserve items as it deems necessary to the extent that specific funds are assessed and collected for such purposes, and such funds shall not be used for any purpose other than the periodic major maintenance and reconstruction of such facilities, repair and maintenance incidental to such major construction and reconstruction and subject to the rights of the Association to utilize the reserve funds for general operating expenses or to help finance capital improvements. The Developer may resolve to provide no reserve or reserves that are less adequate than are required by this Declaration

Section 6.5. Special Assessments for Capital Improvements. In addition to annual assessments authorized by this Article, the Association may levy, in any assessment year, special assessments (which shall be fixed in accordance with the proportion that one Lot has to the total number of Lots in the Development) for all such Lots, applicable to that year only, for the purposes of defraying, in whole or in part, the cost of any construction or replacement of capital improvements upon the Roadways and Easements, including the necessary fixtures and personal property related thereto. The due date of any specified assessment shall be fixed in the resolution authorizing such assessment. The Developer shall not be responsible for paying any special assessments for capital improvements for any Lot held by the Developer.

Section 6.6. Nonpayment of Assessments: The Personal Obligation of the Owner, The Lien and Remedies of the Association. Every assessment, together with such interest thereon and cost of collection thereof as are hereinafter described, shall constitute a personal obligation and debt from each Owner payable to the Association without demand, and shall be secured by a lien upon the Owner's Lot and all improvements thereon of each such Owner. Said lien shall attach annually as hereinafter provided and shall be enforceable by the Association in a court of competent jurisdiction and shall be deemed to run with the land. If any such assessments are not paid within fifteen (15) days of its due date, such assessment shall bear interest from the fifteenth (15th) day after it was due and payable at the maximum rate allowed by law until the Owner pays such assessment in full. No member of the Association may vote on any matters coming before the Association if at the time specified for such vote, such Member is delinquent in any installment thereof. The Association may bring a legal action against any Owner personally obligated to pay any assessment and/or may enforce or foreclose the Association's lien against the Lot for the full amount of any assessment together with interest thereon, as provided herein above. The defaulting Owner shall be responsible for all actual costs, disbursements and expenses incurred by the Developer in collecting the delinquent assessment(s) and interest thereon as provided above, including reasonable attorney's fees and costs, whether or not litigation is commenced and including appellate fees and costs. Accordingly, in the event that a judgment against the defaulting Owner is obtained by the Association, such judgment shall include interest on the assessment as above provided and a sum, to be fixed by the court, to reimburse the Association for all costs, disbursements and expenses (including, without limitation, reasonable attorney's fees, including appellate attorney's fees and costs) incurred by the Association in connection with said action.

Section 6.7. Continuing Liability for Assessments. A Lot Owner, regardless of how title is acquired, shall be liable for assessments coming due while he is the Lot Owner. In any voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for his share of the common expenses up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. The liability for assessments may not be avoided by waiver of the use or enjoyment of the Roadways, Easements, Entrance Gate, Recreational Facilities, or common areas or by abandonment of the Lot for which the assessments are made. If the Mortgagee or purchaser from the Mortgagee shall not be liable for the share of the assessments by the Association pertaining to such Lot or chargeable to the former Lot Owner which became due prior to acquisition of title by said Mortgagee or purchaser from the Mortgagee as a result of the foreclosure, such unpaid share of common expenses or assessments shall be deemed to be common expenses collectable from all of the owners of Lots.

Section 6.8. Certificate of Unpaid Maintenance Assessments. Each such lien for unpaid assessments, as between the Association on the one hand and the Owner and any grantee of such Owner on the other hand, shall attach to the Lot and improvements against which the delinquent assessment was made as of January 1st of the year in which such assessment shall be assessed (said January 1st date being the attachment date of each such lien):

provided, however, that all such liens shall be subordinate to the lien of an Institutional Mortgagee recorded prior to the time of recording of the claim of lien of the Association pursuant to this Section. Upon request, the Association shall furnish any Owner or mortgagee with a certificate setting forth whether the above described assessments have been paid and showing the amount of any unpaid assessments against the applicable Lot and the period or periods for which any such unpaid maintenance assessments were assessed and fixed. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

ARTICLE VII **MAINTENANCE AND REPAIR OF LOT**

Section 7.1. Owner Maintenance. The Owner of each Lot at his own expense shall see to, and shall be responsible for, the maintenance of his Lot and must promptly correct any condition which would, if left uncorrected, cause any damage or loss of value to another Lot, and shall be responsible for any damages caused by this action or non-action.

Section 7.2. Maintenance of Drainage Easement on Lot During Construction. Each property owner within HIDDEN WATERS 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). General Lot grading plans are attached as Exhibit "B". Final grading, however, shall be in compliance with approved plans on file with SWFWMD.

Section 7.3. Exterior Maintenance and Repair. Each Lot Owner shall be responsible for and shall see to the maintenance, repair and operation of the exterior of the structures situated on the Lot, including the roofs of any structures. If all or any portion of a residence is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner, with all due diligence, to rebuild, repair, or reconstruct such residence in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken as soon as reasonably practicable, but in no event later than two (2) months from the date the damage occurs, and shall be completed within six (6) months from the date the damage occurs, unless prevented by causes beyond the control of the Owner. The Plans and Specifications for the repair or reconstruction of such Lot must be approved by the ARB as set forth in Section 9.2. No alterations to the exterior of any structures shall be made without the prior written consent of the ARB.

Section 7.4. Owner's Additional Costs. In addition to the costs incurred by the Owner in fulfilling the Owner's obligations as set forth in this Article, each Owner shall also be responsible for the following costs (which are illustrative but not determinative of the total costs for which such Owner is responsible): the cost of property taxes attributable to the Lot; electricity; garbage pickup; telephone, cable television and Association assessments.

Section 7.5. Remedies of Association. In the event that any Owner of a Lot fails to obtain required approvals or to repair or maintain structures as required herein, the Association, other Owners or the Association shall have the right to proceed in a court of law or equity to seek compliance with the provisions hereof. The Association shall also have the right to levy at any time an individual assessment against the Owner of the Lot for the necessary sums to put the improvements within the Lot in good condition and repair or to remove any unauthorized structural addition or alteration. After making such assessments, the Association shall have the right to have its employees and agents enter the Lot (but not any structure thereon) at any time to do such work as deemed necessary to enforce compliance with the provisions hereof. The foregoing rights and remedies shall be cumulative with the rights and remedies of the Association set forth elsewhere in this Declaration.

ARTICLE VIII
USE RESTRICTIONS

Section 8.1. The Property Subject to Use Restrictions. In addition to other restrictions, reservations and conditions set forth elsewhere in this Declaration and the Articles of Incorporation and Bylaws of the Association, the Property shall be subject to the following restrictions, reservations and conditions, all of which shall run with the land and with the exception of the developer, be binding upon each and every Owner who shall acquire or own a Lot on any portion of the Property, and shall be binding upon the respective heirs, personal representatives, successors and assigns thereof.

Section 8.2. Single Family Residential uses and Structures Only. The subdivision shall be used and occupied and structures shall be constructed only for the following purposes:

A. Single family residences (excluding mobile homes and/or modular homes) and appurtenant structures such as decks, lanais, porches and the like;

B. Noncommercial (private) boat docks, elevated fishing piers and boardwalks thereto;

C. Noncommercial (private) attached garages each of which shall be constructed for not less than two (2) vehicles per lot. No detached garages, sheds or outbuildings are allowed. Side entry garages shall be used when possible. Others shall be approved by the Association and the ARB;

D. Swimming pools;

E. Tennis Courts;

F. Gazebos; and

No buildings or structures whatsoever shall be erected or maintained in the subdivision except those to be used for the purposes afore described. Carports are specifically prohibited. No subdivision of any Lot shall alter or limit any of the restrictions herein contained upon such Lot as a whole.

Section 8.3. No Subdividing Lot. No Lot shall be subdivided or divided into any parcels or lots smaller in size than that which was originally conveyed by Developer to the initial Owner thereof.

Section 8.4. Nuisance. Nothing shall be done and no condition shall be allowed to continue which may be or may become a nuisance. All Lots shall be kept free of accumulation of brush, trash or other material which may constitute a fire hazard or breeding place for rodents, snakes and the like and the ground cover of each and every LOT (such as, for example, grass or other cover material) shall be maintained at six inches (6") above average grade or less. If any Owner fails to comply with this provision, after fifteen (15) days notice to the Owner or occupant, Association, its successors and assigns, may enter upon the land for the purpose of clearing away any such accumulation or excess growth of ground cover and assess the cost thereof against the record Owner of the land.

Section 8.5. Architectural Style, Building Materials, and Color Scheme. The Architectural style and color of all residences, buildings, and structures shall be like or harmonize with the "Old Florida" style. All exterior building materials for wall surfaces shall be a minimum of 75% of hearty plank, board and batten, ship lap, or comparable material, such as the best grade insulated vinyl. Variations, including CBS homes with stucco or other type of construction must receive approval by the Association and/or Architectural Review Board (the "ARB"). The architectural style, building materials, and color scheme are required to be approved by the Association/ARB in accordance with Article IX.

Section 8.6. Structure Size, Roof Materials, and Stem wall Construction. No residential structure to be constructed in HIDDEN WATERS SUBDIVISION shall contain an enclosed living area less than two thousand two

hundred square feet (2200 sq.ft.) in size, exclusive of screened or open porches, lanais, patios, decks, entryways and garages unless the Association grants a variance in writing at the Association's sole and absolute discretion. All roofs shall be constructed of metal. Other materials shall be approved by the Developer when acting as the Architectural Review Board ("ARB"), or the Architectural Review Board, at such time as the Developer appoints a committee, in accordance with Section 9.1 constituting the Architectural Review Board. All residences, buildings, and structures shall be constructed on a stem wall foundation, piling foundation, or a combination of stem walls and piers. Area below flood elevation shall be fully enclosed in accordance with the applicable building codes. No lattice or open area is allowed below flood elevation. Any material other than concrete block or wood framing shall be approved by the ARB.

Section 8.7. Garage Floor Elevation. The garage floor elevation shall be at the lowest level above the crown of road as to be in compliance with the Charlotte County building and flood zone regulations or as approved by developer.

Section 8.8. Excavating and Clearing Land. No bulldozing or clearing of trees on any Lot shall be commenced until plans and specifications showing the nature, kind, shape and location of work to be done and the grading plans of the Lot to be built upon shall have been submitted to and approved in writing by the Association. Land Clearing activities including tree removal may not be done unless the Owner has complied with the Charlotte County Tree Ordinance in effect at the time of such removal.

Section 8.9. Improvement Completion Time Frame. Unless specifically excepted by the Association, all improvements for which an approval of the Association or of the ARB is required under this Declaration shall be completed within one (1) year from the date of commencement of said improvements.

Section 8.10. Rights of Way, Lawn and Irrigation Systems. Owners shall keep their Lots and any Easements located on the Lots (including front, side, and rear setbacks) mowed at the edge of the pavement, and in a neat, clean and orderly condition at all times. Each Owner shall install an irrigation system on their Lot at the time a residential structure is constructed on the Owner's Lot. Lawns and shrubbery must be watered and fertilized as necessary in order to keep lawns and shrubbery green and in a stable condition. No excessive weeds or unsightly undergrowth or brush shall be permitted. The Association reserves the right to enter upon a Lot and mow the lawn, trim shrubbery and otherwise clean a Lot if an Owner fails to maintain the lawn and landscaping. Association shall deliver written notice to the Owner demanding reimbursement for the cost of such care. Should the Owner of any Lot, within fifteen (15) days of delivery of such notice, fail to reimburse the Association, the Association shall levy a special assessment against such Owner for reimbursement, pursuant to the provisions of this Declaration.

Section 8.11. Easements. Nothing shall be placed on any part of any Lot which is reserved for Roadways, or for Easements and would interfere with the construction, use and maintenance of said Roadways, or Easements. Association may remove any structure, trees or other vegetation which interferes with any construction, maintenance or repair of the Easements, Stormwater System or the Roadways, and the cost thereof shall be paid by the applicable Owner to Association within fifteen (15) days after written notice. If the Owner shall fail to reimburse Association, Association shall levy and collect a special assessment against the Owner for reimbursement pursuant to the provisions of this Declaration.

Section 8.12. Building Setbacks. No building, structure or part thereof shall be constructed on any Lot within a minimum of thirty-five (35') from the front property line, with exception of Lots 17 and 18 which shall be a minimum of twenty-five (25') front yard setback. Lots 1-3 and 17-19 shall maintain a minimum of thirty feet (30') setback from the north property line. All lots shall maintain a minimum of fifteen feet (15') from the jurisdictional line and side yard setbacks as defined by Charlotte County Zoning Regulations. In the case of a single ownership of more than one (1) contiguous Lot, these restrictions shall apply to the parcel owned as a whole and not to the interior Lot line of the contiguous Lots under common ownership. For the purposes hereof, the front property line is defined to be the principal street frontage on Lots abutting a street. County zoning restrictions shall be adhered to if more restrictive than these setbacks.

Section 8.13. Boat Docks. Boat landings, docks, piers and mooring posts (herein 'boat docks') shall be constructed only in accordance with local, state and federal laws and regulations applicable thereto. No boathouse shall be constructed on or adjacent to any Lot in the subdivision nor shall any boat canal or slip be dug or excavated in any of the Lots. No vessel or boat shall be anchored offshore in the waterway adjacent to the subdivision so that the same shall in any way interfere with navigation. No boat landing, dock, pier, mooring post or land adjacent thereto shall be used for business or commercial purposes. No live-aboards shall tie up to a boat dock or be anchored offshore in the waterway adjacent to the subdivision.

Section 8.14. Outside Storage. No motor vehicles without current license plates shall be stored and/or parked anywhere on the Property. No items may be hung or otherwise stored on a Lot outside the dwelling thereon, including without limitation scrap metal, any abandoned, wrecked or junked vehicles, appliances, furniture, equipment, unsightly items, building materials, equipment or other items of any type.

Section 8.15. Motor Vehicle Repairs. No Owner of any Lot, nor a member of his family, guests, invitees, licensees, or lessees, shall engage in the construction, reconstruction, repair or maintenance on the Lot of any motor vehicle, regardless whether said motor vehicle is owned by the Lot owner; provided, however, that an Owner may wash said vehicle and/or polish or change a tire. There shall be no repair, assembling or disassembling of motor vehicles, except inside the Owner's garage.

Section 8.16. Trash. No Lot or any part of the Property shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste (hereinafter referred to as "trash"), all of which shall be bagged, tied and kept in covered sanitary receptacles in the garage or at the side or rear of the dwelling on the Lot so that it is out of sight from the street and adjacent lots and within approved walled-in fenced area, protected from animals, rodents, birds, etc. Burning of trash on the Lot is prohibited. A trash receptacle is allowed during the construction of a home but must be removed as soon as possible when construction is complete.

Section 8.17. Containers and Fuel Tanks. No above ground storage of gasoline, heating or other fuels shall be permitted on the Lot or on any part of the Property, except for up to twenty-five (25) gallons of fuel may be stored on the Lot for emergency purposes or operation of lawn mowers, boats, household tools, generators or other equipment. Propane tanks greater than 25 gallons and up to 250 gallons are permissible provided they are fully buried and all applicable permits have been obtained.

Section 8.18. Pets. No animals, livestock, poultry of any kind, shall be raised, bred or kept on or in any Lot, except for dogs, cats, and house birds may be kept provided that they are not kept, bred or maintained for any commercial purpose. No Owner, tenant or other occupant of a Lot shall keep more than a total of three dogs and cats on a Lot. All pets shall be on a leash or retained at all times when outside the Lot. Dogs not covered by the homeowner's insurance company shall be prohibited. Proof of liability shall be provided to the Association for any dogs upon request.

Section 8.19. Prohibitions. No Owner, tenant or other occupant of a Lot and/or residence in the subdivision shall:

A. Remit loud and/or objectionable noises or obnoxious odors to emanate from his/her Lot nor play any piano, organ or electronically amplified musical instruments or devices which may cause a nuisance to the occupants of the other Lots in the subdivision;

B. Allow anything to remain outside the residence which would be unsightly or hazardous including building materials, block, brick, etc.;

C. Park outside the garage or park overnight or use for a living accommodation commercial vehicles, commercial trucks, boats, campers, trailers, mobile homes, recreational vehicles except during the time they are actually serving the residence;

D. Conduct any motor repair or other repair work to a vehicle nor store any household articles, furnishings or other personal property outside the residence or garage;

E. Place or maintain any mobile home, house trailer, tent, hut shack, portable structure, recreational vehicle or other temporary living quarters on any Lot in the subdivision;

F. Keep any animals, birds or reptiles, other than commonly acceptable domestic pets, on any Lot in the subdivision;

G. Display any signs of any kind whatsoever except that the developer may construct lot number signs. "For Sale" signs shall not be greater than 18" x 24" except that developer, at developer's sole discretion may construct signs to promote the subdivision for the purpose of lot sales;

H. Erect a satellite dish that exceeds thirty-six inches (36") in diameter;

I. Construct a Sea wall on a Lot other than one of a "natural" material such as a "rock revetment." This paragraph is not intended to imply on behalf of the Developer or Association that any type of shore protection will be permitted by the agencies. All local, state, and federal permits must be obtained as required prior to construction.

In addition, nothing contained herein shall prevent each and every Owner, upon obtaining all necessary governmental permits therefore, from constructing boardwalks, docks, and the like.

Section 8.21. Leases.

A. All leases of Lots shall be restricted to single-family residential use under the restrictions set forth herein. All leases shall be in writing and the Association shall have the right to terminate any lease upon default by the lessee by not observing any of the provisions of this Declaration and applicable Rules and Regulations. Each lease shall contain the following provision:

"The lessee hereunder acknowledges that this lease is subject to the Declaration of Covenants, Conditions, and Restrictions of HIDDEN WATERS SUBDIVISION and the Rules and Regulations provided thereunder which lessee has read and agrees to be bound thereby, and that the failure to comply with same may result in certain remedies being invoked by the Association against lessee, including without limitation termination of this lease and personal liability of lessee for damages."

If the foregoing provision is not contained in any lease, it shall be deemed incorporated therein by reference. In the event a lessee, or a lessee's invitee, guest or licensee, occupies a Lot without a written lease, the occupancy thereof shall constitute an acceptance of this Declaration and an agreement to be bound thereby and subject thereto.

B. Owners leasing their Lots shall be responsible for all violations, and all damages or losses to the Roadways and Easements caused by a lessee, or a lessee's invitee, guest or licensee.

C. No lease shall be for a term of less than four (4) months. No Lot shall be made subject to any type of timesharing, fraction-sharing or similar program whereby right to the Lot rotates among members of the program on a fixed or floating time schedule.

Section 8.22. Fences. No fence, other than that constructed by the Developer, shall be erected, constructed or placed on any lot in the subdivision unless approved by the Association. The Developer has the right to erect a fence, wall or other structures, prior to the selling of the final lot in said subdivision. No alterations are allowed to the walls and fences constructed to the benefit of the Subdivision without the prior approval of the Association.

Section 8.23. Landscaping. No shrubbery, trees, plants, or irrigation systems on any Lot in the Property shall be installed without the prior written consent of ARB. Owners may, however, replace dead shrubbery or add additional shrubbery within existing landscaped areas, without prior approval, if compatible with landscaping previously utilized by the Owner. Lawns shall be sodded. All landscaping shall be in compliance with any landscaping plans or guidelines furnished by the ARB to the Owner at the time of purchase of a Lot or as otherwise established at anytime thereafter by the ARB. No stone, mulch or shell yards shall be allowed. An irrigation system is required to be installed by each lot owner to serve the lawn and landscaped areas.

Section 8.24. Clotheslines. Hanging or dusting garments, rugs or any other materials from the windows, balconies or from the exterior of any Lots is prohibited. Clotheslines and drying yards shall be located and landscaped so as not to be visible from off-premises.

Section 8.25. View Protection. The ARB reserves the right, but not the obligation, to reasonably restrict the placement of structures, landscaping or other impediments to the enjoyment of views from and of adjoining Lots.

Section 8.26. Elevation. No changes in the elevation or drainage characteristics of the land shall be made without prior written approval of the ARB or Association nor shall any fill be used to extend the Property beyond the property line or to encroach upon the storm water management easements. Each owner is responsible during the final grading of his lot to make sure all grades in the retention swales are per the Southwest Florida Water Management District (SWFWMD) and Charlotte County Stormwater Permit for said drainage system. A Professional Surveyor and Mapper or Professional Engineer, registered in the State of Florida, shall prepare an as-built drawing (record drawing) of the retention swales and shall submit it to the Association when these swales are completed. No deviations from the approved stormwater plans on file with Charlotte County and SWFWMD are allowed. Any minor deviations shall be reviewed by a professional engineer and certification provided to the Association that they will not affect the ability of the stormwater system to function properly.

Section 8.27. Garages. Each dwelling in HIDDEN WATERS SUBDIVISION shall include a fully enclosed attached garage for at least two (2) but not more than four (4) vehicles.

Section 8.28. Quiet Enjoyment Free of Nuisances. In addition to all other Covenants and restrictions set forth in this Article, no noxious or offensive activity shall be carried on or upon any Lot, nor shall anything be done thereon which may become any annoyance or nuisance to the Property, nor shall any disturbance be permitted which will interfere with the rights, comforts or convenience of other Owners and their respective guest, invitees or lessees. Owners shall be prohibited from doing anything or conducting any activity which would detract or in any way deter from the beauty or natural aesthetics of the Property.

Section 8.29. Right to Enter the Property. The Developer, the Association or its employees, agents, or assigns, after giving an Owner reasonable notice and opportunity to cure a violation of this Declaration, may enter upon a Lot (but not within a residential structure) for the purpose of curing the violation, but shall have no liability to the Owner, whether for trespass or otherwise as a result of such entry upon the Lot.

Section 8.30. Legal Proceedings for Violations. If any person shall violate or attempt to violate or in any way fail to abide by this Declaration, or any Rules and Regulations, it shall be lawful for the Association, or any other person(s) owning any Lot in the Property to conduct such legal proceedings as are available to enforce compliance therewith, to prevent further or continued violation by injunctive relief and to recover damages, attorneys fees, court costs and litigation costs and expenses for such violation or attempted violation.

Section 8.31. Developer Exempt. The Developer shall be exempt from the restrictive provisions of this Article during the time period in which the Developer is selling lots in HIDDEN WATERS SUBDIVISION.

ARTICLE IX
ARCHITECTURAL REVIEW BOARD

Section 9.1. Composition of Architectural Review Board. The Developer, acting in its own name, shall constitute the Architectural Review Board ("ARB") until such time as the Developer, in its sole and absolute discretion shall appoint a committee of not less than one (1) nor more than three (3) members, which shall henceforth constitute the Architectural Review Board ("ARB"). In the event a member of such committee resigns or becomes unable to serve thereon, the Developer shall appoint a successor. If Developer has not appointed such a committee by the time Developer ceases to be a Class B Member of the Association, the Association shall appoint a committee of not less than one (1) nor more than three (3) members to act as the ARB.

Section 9.2. Review by Architectural Review Board. In order to enhance, maintain and preserve the aesthetic beauty and property values of the Property and all Lots located thereon, no residence, building, storage structure, swimming pool, pool cage, tennis court, boat docks, walkways, screen enclosure, sprinkler systems, irrigation wells, sewers, drains, disposal systems, decorative building sign, fence, landscape device or object, recreational or other structure or improvement (including landscaping) shall be commenced, painted, erected or maintained upon the Property, nor shall any exterior addition, change or alteration be made to any previous improvement on a Lot, nor shall any awning, canopy, shutter, or antenna be attached to or placed upon outside walls or roofs of buildings or other improvements, until the proposals, drawings, blueprints, and plans and specifications showing the nature, kind, shape, height, materials, color selection, and location of the same (hereinafter referred to as "Plans and Specifications") have been submitted to, and approved in writing by, the ARB upon its satisfaction as to the harmony of exterior design and location in relation to surrounding structures and topography, and as to conformance with the architectural and landscaping standards, and assurance that any damage to the Property as a result of such additions or alterations will be repaired in a timely fashion. The ARB may establish conditions to its approval of Plans and Specifications and/or may require submission of additional Plans and Specifications or other information prior to approving or rejecting the Plans and Specifications submitted. The architectural and landscaping standards may include rules or guidelines setting forth procedures for the submission of Plans and Specifications submitted for its review as it deems proper. Upon receipt by the ARB of any required Plans and Specifications, the ARB shall have thirty (30) days within which to approve or reject such proposed Plans and Specifications and, if the ARB has not expressed its approval or rejection of same in writing within said thirty day period, said Plans and Specifications shall be deemed to have been approved in writing. All changes and alterations to any Lot shall also be subject to all applicable permit requirements and other governmental laws, statutes, ordinances, rules, regulations, orders and decrees.

Section 9.3. Approval Not to be Construed as Waiver. The approval by the ARB of any Plans and Specifications for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ARB, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar Plans and Specifications submitted for approval or consent.

Section 9.4. Architectural Review Board Expenses. The members of the ARB shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder, which such expenses shall be the sole responsibility of Owner. If such expenses are not paid by the Owner to the ARB within fourteen (14) days of such notice, the ARB shall levy and collect a special assessment against such Owner for reimbursements, pursuant to the provisions of this Declaration.

Section 9.5. Limitations on Architectural Review Board Liability. Neither the ARB, nor the Developer, nor the Association shall be liable to any Owner or other person or entity for any loss, damage or injury arising out of, or in any way connected with, the performance or nonperformance of the ARB's duties hereunder, unless due to the willful misconduct of an individual member and only the member engaging in such willful misconduct shall have any liability in such event.

Section 9.6. Variances. The ARB shall have the absolute right and discretion to grant written variances from compliance with Article VII of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require, in which event no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matters for which the variances were granted. Any individual variance granted does not set precedence for future variance requests. Each variance will be reviewed individually on its own merits. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration, except to the extent covered by the variance nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of the Lot. A variance, if approved by the ARB, shall be in writing and shall be strictly complied with by the Owner. A variance must be executed with the formalities of a deed and shall be recorded in the Public Records of Charlotte County, Florida, to become effective.

Section 9.7 Compliance with Covenants, Conditions, and Restrictions. Except as otherwise provided for in this Article, all construction and other activities for which approval must be obtained from the ARB shall be in compliance with the covenants, conditions, and restrictions of this Declaration and Plans and Specifications approved by the ARB.

Section 9.8. Attorneys' Fees and Costs. For all purposes necessary to enforce, defend or construe this article, the Association and the ARB, as appropriate, shall be entitled to collect reasonable attorney's fees costs and other expenses from the Owner, whether or not judicial proceedings are involved, which amounts shall constitute a lien against the owner's Lot and be enforced in the same manner as provided in this Declaration.

Section 9.9. Exemption of Developer. The Developer shall be exempt from the provisions of this Article with respect to all improvements, alterations and additions which Developer shall make in the Property during the time period in which the Developer is developing and selling lots in HIDDEN WATERS SUBDIVISION.

ARTICLE X **ENFORCEABILITY**

Section 10.1 Parties Who May Seek Enforcement. If any Person shall violate or attempt to violate any of the provisions of this Declaration, the Association's Bylaws or Articles of Incorporation, or any Rules and Regulations, it shall be lawful for the Developer, the Association or, under appropriate circumstances, any Owner (hereinafter referred to as the "Enforcing Party" for the purpose of this Section) to prosecute proceedings to either prevent, enjoin or seek recovery of the damages against those so violating or attempting to violate any such provisions in any court of competent jurisdiction. Should the Enforcing Party seek to enforce or defend any such provisions, its reasonable attorneys' fees and costs incurred, whether or not judicial proceedings are involved, including the attorney's fees and costs incurred on appeal, shall be collectible from the party against whom enforcement is sought; the collection of such damages, costs and attorney's fees may be enforced by any method set forth in this Declaration for the collection of an annual assessment or special assessment, including without limitation the initiation of foreclosure proceedings against the Owner's Lot and/or against the Owner personally. The remedies contained in this provision shall be construed as cumulative of all other remedies now or hereafter provided by law. The failure of the Enforcing Party to enforce any covenant, condition, or restriction or any obligation, right, power, privilege, authority or reservation herein contained, however long continued, shall in no event be deemed a waiver of the right to enforce the same thereafter as to any recurring, similar or dissimilar breach or violation.

Section 10.2. Special Assessment. In addition to all other remedies provided in this Declaration, the Association may levy a reasonable special assessment upon an Owner for failure of the Owner, his family, guests, agents, lessees, licensees, invitees, tenants or employees, to comply with any provision of this Declaration or any Rules or Regulations or for the failure to pay to, or reimburse the Association for any sums owed by Owner to Association under this Declaration.

Any special assessment levied in accordance with this Article may be enforced by the Association in the same manner as the enforcement of an assessment provided for in this Declaration, included recording a lien on the Owner's Lot and foreclosing same and/or seeking injunctive or other equitable relief or other equitable relief and/or the recovery of monetary damages from the Owner personally.

ARTICLE XI **RIGHTS OF DEVELOPER**

Section 11.1. Completion of the Development. The Developer reserves the right to itself, its agent, assignees, employees or any contractor or subcontractor dealing with the Developer, to enter upon the Property for the purpose of carrying out whatever activities are desirable or necessary for the repairs of the Development, including but not limited to, completing any dredging, filling, grading, or installation of water lines or sewer lines. These reserved rights in the Developer shall also apply to any additional improvements which the Developer has the right, but not the duty, to install, including without limitation any streets, parking areas, storage facilities, lighting, landscaping, parks, docks, piers, boardwalks, sidewalks, curbs, gutters, beautifications, construction of any buildings or structures on any Roadways and Easements or lots or any other improvements.

Section 11.2. Easements.

A. Perpetual exclusive, but assignable and delegable, easements of ingress and egress over the Roadways and Easements for the installation and maintenance of sewer, water, gas, cable television, telephone, and power and drainage facilities for the benefit of the adjoining property owners and the applicable governmental entity and/or public or private utility company ultimately operating such facilities are reserved to the Developer.

B. A perpetual exclusive, but assignable and delegable, blanket easement over the Property for the repairs, location, construction, operation, maintenance and reconstruction of drainage swales, storm sewers and storm drains, including the right to alter or redirect drainage and water flow, utilities and drainage purposes is hereby reserved to the Developer, excluding those areas within two (2) feet of the perimeter of all buildings on the Lots.

Section 11.3. Right to Modify the Development. In the event Developer determines it is necessary or desirable to modify the Development, Developer may do so, in its sole discretion, by amendment to this Declaration or by plat amendment or re-plat of any portion of the Development. Developer also reserves the right, in its sole discretion, to change building styles, elevations, sizes, interior and exterior configuration, heights, material, and location; and to construct certain improvements on any portion of the Property deemed to be, in Developer's sole discretion, reasonably necessary or desirable, without the consent of any Owner or the Association.

Section 11.4. Rights to Amend Declaration. Developer reserves the right to hereafter, from time to time, amend, modify, add to or delete any provision, section or article of this Declaration or any portion thereof, without notice to or consent from any Owner or the Association.

Section 11.5. Rights and Responsibilities Pending Turnover to Association.

A. All rights, powers, privileges, obligations and responsibilities, delegated to the Developer under the terms of this Declaration (including, without limitation Association's rights and obligations under Article V hereof) and shall act in accordance therewith with respect to each particular right, responsibility or portion of real or personal property until such time as particular rights, responsibilities and properties are transferred, from time to time, at the Developer's sole discretion, to the Association in the manner specified under the terms of this Declaration and as contemplated below.

B. All rights, powers, privileges, obligations, and responsibilities reserved unto the Developer hereunder (hereinafter referred to as "rights") shall apply to its successors and assigns (except original purchasers of Lots) and

Developer may assign such rights, in whole or in part, from time to time, including, without limitation, an assignment to the Association and to the ARB. An assignment recorded in the Public Records shall entitle all third parties to deal with the assignee as the true and lawful obligee thereof.

ARTICLE XII **GENERAL PROVISIONS**

Section 12.1. Duration of Declaration.

A. This declaration shall be in full force and effect for a term of thirty (30) years from the date this Declaration is recorded, after which time these provisions shall automatically be extended for successive periods of five (5) years. At any time after the initial thirty (30) year period provided for in this section, these provisions may be terminated or modified in whole or in part by the recordation of a written instrument executed by either the Developer, in its sole discretion (as long as Developer is a Class B Member), or at a regular or special meeting of the Association by the vote of Members entitled to vote who represent two-thirds (2/3) of the total number of Lots owned by Class A Members in the Association and by the Class B Member (so long as such Developer shall continue to be a Class B Member).

B. Failure of the Owners or the Association to enforce any one or more of these Covenants, Conditions and Restrictions shall not be deemed to negate or otherwise affect any other of the Covenants, Conditions and Restrictions, nor in any way be interpreted as a waiver by the Owners or the Association of the right to seek relief by proceeding at law or in equity from any violation, or attempt to violate, any of these Covenants, Conditions, and Restrictions, nor in any way be interpreted as a waiver by the Owners or the Association of the right to seek relief by proceeding at law or in equity from any violation, or attempt to violate, any of these Covenants, Conditions and Restrictions.

Section 12.2. Surface Water Management System Facilities. The Surface Water Management System Facilities are located on lands that are designated private ownership or common property under the Declaration, are located on land that is owned by the Association, or is located on land that is subject to an easement in favor of the Association and its successors. The Association shall maintain structures, equipment, and facilities constructed in connection therewith, as may be required in order to keep the Surface Water Management System for the Property in good operating condition. The surface water management and drainage system of the Property shall be developed, operated and maintained in conformance with the requirements of the Southwest Florida Water Management District (SWFWMD) and any other controlling governmental authority. The Association shall maintain as a Common Expense, the entire surface water management and drainage system for the Property, including but not limited to all culverts, pipes, catch basins, swales, retention areas, control structures and other related appurtenances, regardless of whether or not same are within the Property or are owned by the Association. No construction activities may be conducted relative to any portion of the Surface Water Management System Facilities. Prohibited activities include, but are not limited to: digging or excavation, depositing fill, debris or any other material or item; constructing or altering any water control structure, swales, retention and lake areas; or any other construction to modify the Surface Water Management System Facilities. Only construction and maintenance activities consistent with the design and permit conditions approved by SWFWMD are allowed. SWFWMD has the right to take enforcement measures, including a civil action for injunction and/or penalties, against the Association to compel it to correct any outstanding problems with the Surface Water Management System Facilities. Any amendment of the Declaration affecting the Surface Water Management Facilities shall have the prior written approval of SWFWMD.

Section 12.3. Wetland Buffer. 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, wetland mitigation areas, buffer areas, upland conservation 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, Sarasota Regulation Department. Access walkways and boat docks may be permitted, provided that the Owner has obtained all required permits and approvals from all applicable federal, state, and county agencies including the

SWFWMD. All walkways and boat docks must be constructed in strict compliance with all federal, state, and county permits and approvals.

Section 12.4. Detention Pond (Pond #1). The lot owners shall not remove native vegetation (including cattails) that becomes established within the wet detention ponds abutting their property. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp. Lot owners shall address any questions regarding authorized activities within the wet detention ponds to SWFWMD, Sarasota Service Office, Surface Water Regulation Manager.

Section 12.5. Dissolution of Association. If the Association ceases to exist, all lot owners shall be jointly and severally responsible for operation and maintenance of the stormwater system and other amenities provided for in this document.

Section 12.6. Covenants Running With the Property. The Covenants, Conditions and Restrictions of this Declaration shall run with the land as to all portions of the Property, and shall inure to the benefit of, and enforceable by, the Association, or any Owner, their respective heirs, successors and assigns, subject to the Association's right to amend as provided for in this Declaration.

Section 12.7. Compliance. Every Owner and occupant of any Lot shall comply with all lawful provisions of this Declaration and the Articles of Incorporation, the Bylaws and the Rules and Regulations of the Association. Failure to comply therewith shall be grounds for an action to recover any sums due to any such noncompliance, for other monetary damages and/or injunctive relief, or for any other remedy available at law or in equity, as may be maintainable by the Association or, in a proper case, by any aggrieved Owner or Owners. Any such rights contained in this Section shall be deemed cumulative of any and all rights heretofore and hereafter provided in this Declaration.

Section 12.8. Notices. Any notice required or permitted to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent and delivered when mailed by certified U.S. Mail, postage prepaid, return receipt requested to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing, except notices of meetings and other such notices common to all Owners in the Property, which are deemed properly sent when mailed by regular U.S. Mail, postage prepaid or when hand delivered.

Section 12.9. Indemnification. The Association shall indemnify all of the officers, directors and committee members against any and all expenses, demands, judgments and claims, including reasonable attorney's fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by its then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director or committee member. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith, nor have any personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Developer or the Association. The Association shall indemnify and forever hold each such officer, director and committee member free and harmless from and against any and all liability to others on account of any such contract or commitment, which right to indemnification provided for herein shall not be exclusive of any other rights to which they may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available, the expense of which shall be levied as part of the annual assessments levied upon members.

Section 12.10. Severability. A determination by a court of competent jurisdiction finding any provision of this Declaration invalid or otherwise unenforceable shall not negate or otherwise affect any other provisions of this Declaration, all of which shall remain in full force and effect.

Section 12.11. Headings. The captions used in connection with the Articles and Sections of this Declaration are for convenience and reference only and in no way define, describe, extend or limit the scope of intent of any such provision hereof.

IN WITNESS WHEREOF, the undersigned Developer has executed this Declaration this 7th day of June, 2007.

Witnesses:

RISKALL, LLC

Cindy D. Olson

By: Mary E. Sprague

Name: Cindy D. Olson

Mary E. Sprague, Individually and Managing Partner of Risksome, LLC, managing Partner of Riskall, LLC and Partner, Up the Creek Partners.

Christine D. Heintzelman

Name: Christine Heintzelman

Sally M. Tuck

By: Michael K. Sprague

Name: Sally M. Tuck

Michael K. Sprague, Individually and Partner of Risksome, LLC, managing Partner of Riskall, LLC and Partner, Up the Creek Partners.

Tasha Nichol

Name: Tasha Nichol

STATE OF: Michigan

COUNTY OF: Montcalm

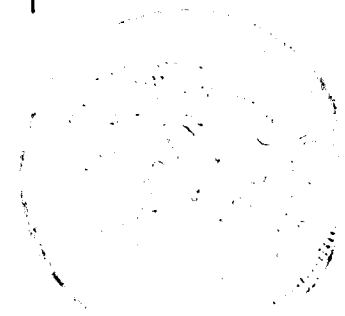
The foregoing instrument was acknowledged before me this 7th day of June, 2007, by Mary E. Sprague, as managing partner of RISK SOME, LLC, managing partner of RISKALL, LLC, who is personally known to me or who has produced DL as identification and who did not take an oath.

Pamela S. Jones
Notary Public

My Commission Expires: July 5, 2013

Pamela S. Jones
PAMELA S. JONES
Notary Public Ionia County, Michigan
My Commission Expires July 5, 2013

acting in Montcalm
county



IN WITNESS WHEREOF, the undersigned Developer has executed this Declaration this 8th day of June, 2007.

Witnesses:

RISKALL, LLC

Hildegard C. Strong

By: [Signature]
Gregory F. Weyers, Individually and Managing Partner of Riskmore, LLC, managing Partner of Riskall, LLC. Partner, Up the Creek Partners

Name: HILDEGARD C. STRONG

[Signature]
Name: Patrick M. Hennessey

Hildegard C. Strong

By: [Signature]
Loretta L. Weyers, Individually and Partner of Riskmore, LLC, managing Partner of Riskall, LLC. Partner, Up the Creek Partners

Name: HILDEGARD C. STRONG

[Signature]
Name: Patrick M. Hennessey

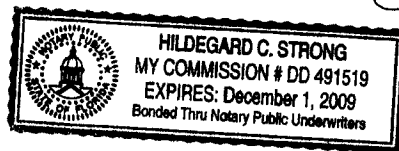
STATE OF: FLORIDA

COUNTY OF: CHARLOTTE

The foregoing instrument was acknowledged before me this 8 day of JUNE, 2007, by Gregory F. Weyers, as managing partner of RISK SOME, LLC, partner of RISKALL, LLC, and Loretta L. Weyers, who is personally known to me or who has produced _____ as identification and who did not take an oath.

My Commission Expires: DEC. 1, 2009

Hildegard C. Strong
Notary Public



**HIDDEN WATERS
PROPERTY OWNERS ASSOCIATION
Charlotte County, Florida**

EXHIBITS

- “A” LEGAL DESCRIPTION**
- “B” DRAINAGE DRAWINGS**
- “C” ARTICLES OF INCORPORATION**
- “D” BY-LAWS**

EXHIBIT "A"
LEGAL DESCRIPTION

DESCRIPTION:

LOT 21, BLOCK A, MOBILE GARDENS FIRST ADDITION, A SUBDIVISION ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 6, PAGE 18 AS RECORDED IN THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA:

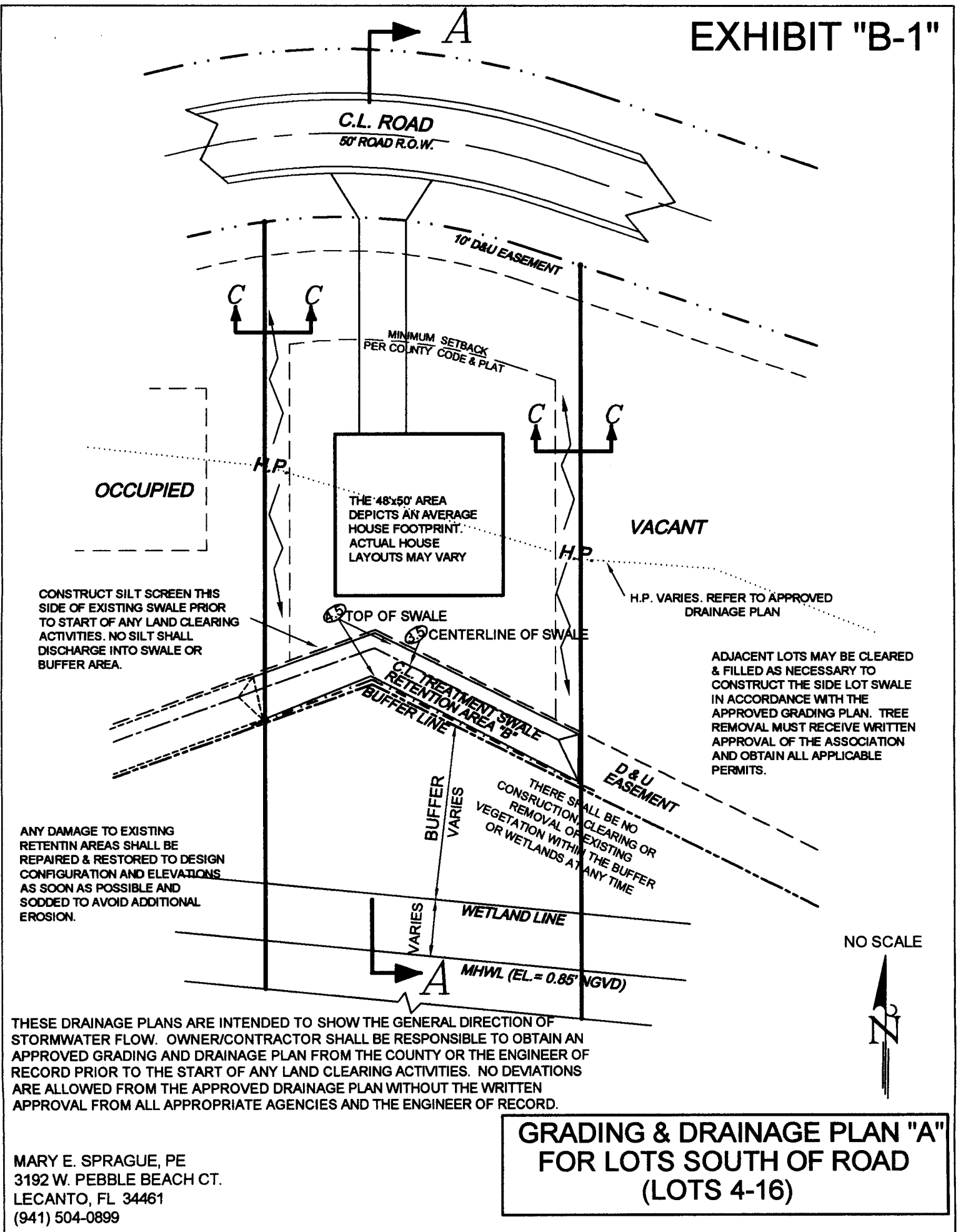
TOGETHER WITH

ALL OF LOT 12 AND PORTIONS OF LOTS 11 AND 13, GROVE CITY LAND COMPANY SUBDIVISION IN SECTION 9, TOWNSHIP 41 SOUTH, RANGE 20 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 8, OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 9, TOWNSHIP 41 SOUTH, RANGE 20 EAST HAVING COORDINATES OF 944174.34 FEET NORTH AND 551485.36 EAST, (ALL COORDINATED IN THIS DESCRIPTION ARE BASED ON FLORIDA WEST ZONE, NORTH AMERICAN DATUM OF 1983); THENCE S.00°12'39"E, ALONG THE WEST LINE OF SAID SECTION 9, A DISTANCE OF 1326.12 FEET TO THE NORTHWEST CORNER OF LOT 12, GROVE CITY LAND COMPANY SUBDIVISION IN SECTION 9, TOWNSHIP 41 SOUTH, RANGE 20 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 8, OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA, HAVING A COORDINATE OF 942848.29' NORTH AND AN EASTING OF 551489.44' FOR A POINT OF BEGINNING; THENCE S.89°00'33"E., ALONG THE NORTH LINE OF SAID LOT 12, A DISTANCE OF 312.93 FEET TO THE SOUTHWEST CORNER OF LOT 21, MOBILE GARDENS FIRST ADDITION AS RECORDED IN PLAT BOOK 6, PAGE 18 OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY FLORIDA; THENCE N.00°59'27"E., 100.00 FEET TO THE SOUTH RIGHT OF WAY LINE OF VIA DELUNA (50 FOOT PUBLIC RIGHT OF WAY); THENCE S.89°00'33"E., 75.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 21; THENCE S.00°59'27"W., ALONG THE EAST LINE OF SAID LOT 21, A DISTANCE OF 100.00 FEET TO THE NORTH LINE OF AFORESAID SAID LOT 12 GROVE CITY LAND COMPANY SUBDIVISION; THENCE S.89°00'33"E., ALONG SAID LINE, 877.18 FEET TO A CONCRETE MONUMENT HAVING A COORDINATE OF 942825.64' NORTH AND AND 552754.29' EAST, THENCE CONTINUE S.89°00'33"E, ALONG SAID LINE, 10.60 FEET MORE OR LESS TO THE MEAN HIGH WATER LINE OF OYSTER CREEK; THENCE SOUTHERLY AND WESTERLY ALONG SAID MEAN HIGH WATER LINE FOR THE FOLLOWING 11 CALLS: THENCE S.07°40'11"W., 35.55'; THENCE S.26°34'20"W 36.97'; THENCE S.48°23'36"W., 21.52'; THENCE S.46°19'33"W., 137.89'; THENCE S.31°41'59"W., 108.18'; THENCE S.34°05'10"W., 94.68'; THENCE S.16°18'35"W., 69.01'; THENCE S.19°36'52"W., 85.15'; THENCE S.28°55'13"W., 161.46'; THENCE S.82°08'59"W., 108.29'; THENCE S.88°57'08"W., 89.55' TO ITS INTERSECTION WITH THE SOUTH LINE OF AFORESAID LOT 11; THENCE N.89°01'48"W., ALONG THE SOUTH LINE OF LOT 11, 34.40' TO THE SOUTHWEST CORNER OF SAID LOT 11; THENCE S.00°06'38"E., ALONG THE EAST LINE OF LOT 13, GROVE CITY LAND COMPANY SUBDIVISION, 7.99' TO THE MEAN HIGH WATER LINE OF OYSTER CREEK; THENCE ALONG SAID MEAN HIGH WATER LINE FOR THE FOLLOWING THREE CALLS; THENCE S.74°56'26"W., 86.45'; THENCE S.46°44'18"W., 83.28'; THENCE S.39°14'44"W., 23.80'; THENCE LEAVING SAID MEAN HIGH WATER LINE, N.22°07'50"W. 57.68 TO ITS INTERSECTION WITH THE MEAN HIGH WATER LINE OF OYSTER CREEK; THENCE NORTHEASTERLY AND WESTERLY ALONG SAID MEAN HIGH WATER LINE FOR THE FOLLOWING 19 CALLS; THENCE N.10°34'15"E. 68.61'; THENCE N.31°53'45"E., 35.88'; THENCE N.74°26'00"E., 33.96'; THENCE S.69°34'46"E., 37.18'; THENCE N.65°29'26"E., 121.72'; THENCE N.65°29'26"E., 51.89'; THENCE N.72°52'12"W., 48.64'; THENCE N.72°52'12"W., 113.77; THENCE N.48°13'29"W., 94.20'; THENCE S.80°06'05"W., 37.28'; THENCE S.40°49'12"W., 91.87'; THENCE N.86°47'21"W., 51.51'; THENCE N.42°43'26"W., 94.31'; THENCE N.40°29'03"W., 73.25'; THENCE N.85°37'16"W., 100.59'; THENCE S.53°19'41"W., 94.62'; THENCE S.38°47'42"W., 66.62'; THENCE S.19°53'48"W., 63.99'; THENCE S.73°14'31"W., 21.28', MORE OR LESS TO WEST LINE OF AFORESAID LOT 12, GROVE CITY LAND COMPANY SUBDIVISION; THENCE N.00°13'11"E., ALONG SAID WEST LINE, 564.90', MORE OR LESS TO THE POINT OF BEGINNING, CONTAINING 594,450.5 SQUARE FEET/13.647 ACRES, MORE OR LESS.

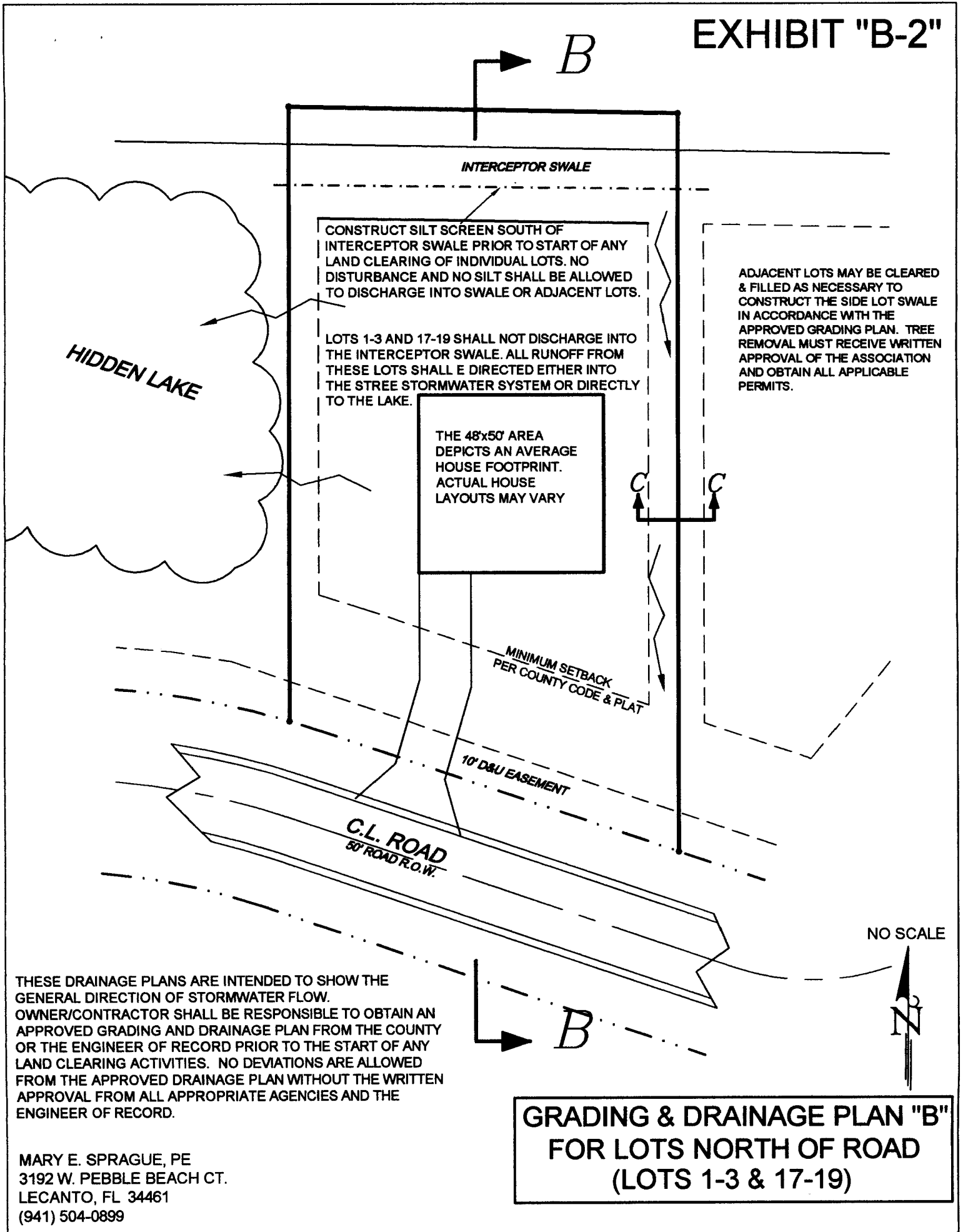
EXHIBIT "B-1"



GRADING & DRAINAGE PLAN "A"
FOR LOTS SOUTH OF ROAD
(LOTS 4-16)

MARY E. SPRAGUE, PE
3192 W. PEBBLE BEACH CT.
LECANTO, FL 34461
(941) 504-0899

EXHIBIT "B-2"

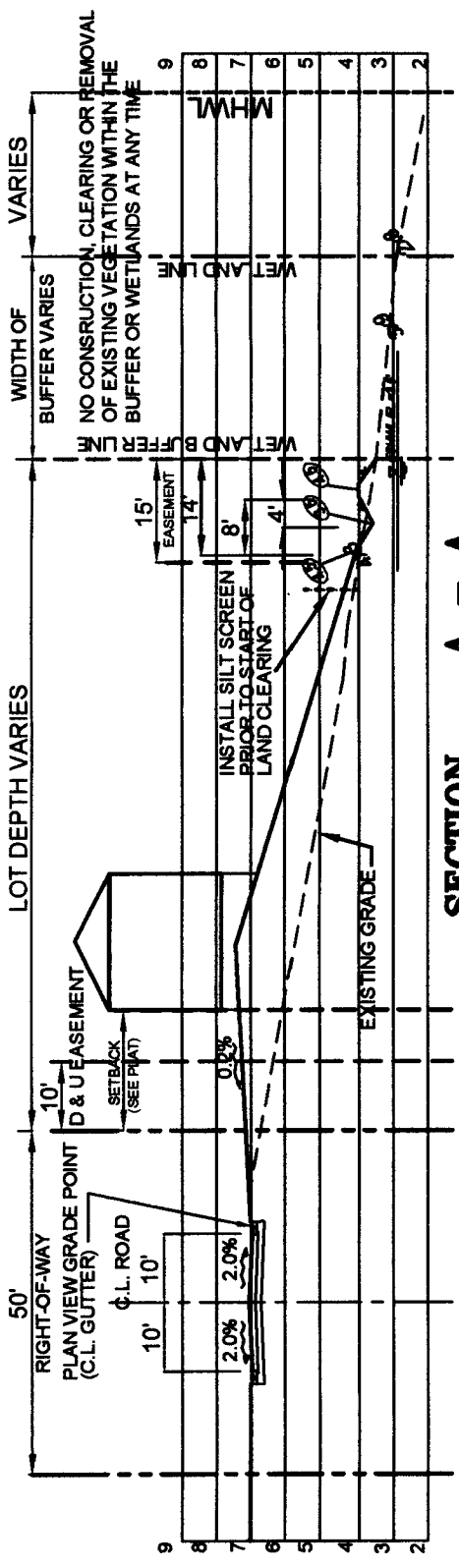


THESE DRAINAGE PLANS ARE INTENDED TO SHOW THE GENERAL DIRECTION OF STORMWATER FLOW. OWNER/CONTRACTOR SHALL BE RESPONSIBLE TO OBTAIN AN APPROVED GRADING AND DRAINAGE PLAN FROM THE COUNTY OR THE ENGINEER OF RECORD PRIOR TO THE START OF ANY LAND CLEARING ACTIVITIES. NO DEVIATIONS ARE ALLOWED FROM THE APPROVED DRAINAGE PLAN WITHOUT THE WRITTEN APPROVAL FROM ALL APPROPRIATE AGENCIES AND THE ENGINEER OF RECORD.

MARY E. SPRAGUE, PE
 3192 W. PEBBLE BEACH CT.
 LECANTO, FL 34461
 (941) 504-0899

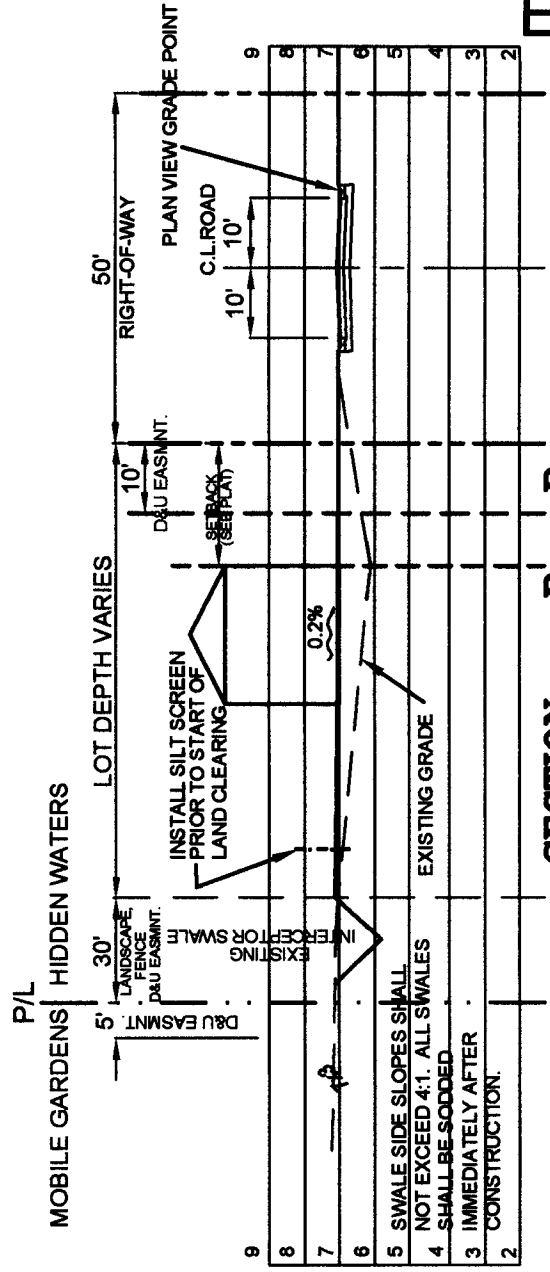
GRADING & DRAINAGE PLAN "B"
FOR LOTS NORTH OF ROAD
(LOTS 1-3 & 17-19)

EXHIBIT "B-3"

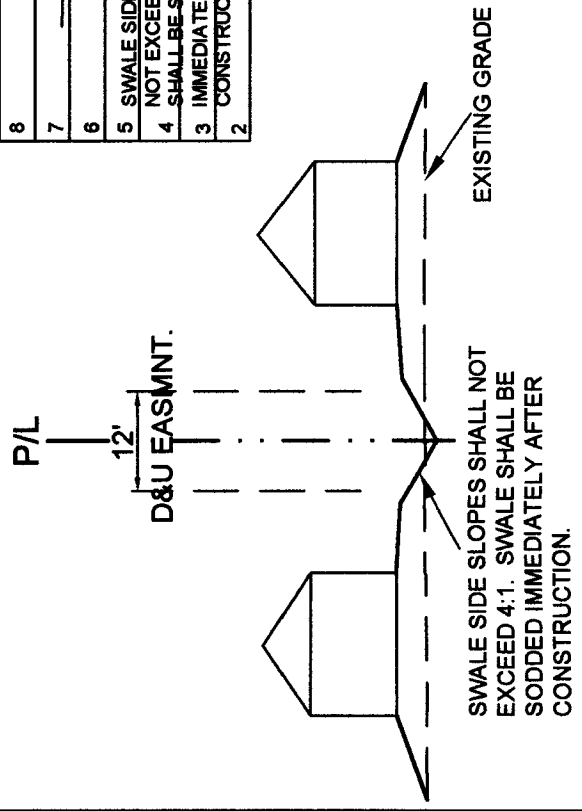


SECTION A - A
NO SCALE

MARY E. SPRAGUE, PE
3192 W. PEBBLE BEACH CT.
LECANTO, FL 34461
(941) 504-0899



SECTION B - B
NO SCALE



SECTION C - C
NO SCALE

EXHIBIT "C"

ARTICLES OF INCORPORATION OF HIDDEN WATERS PROPERTY OWNER'S ASSOCIATION, INC.

The undersigned incorporator, a resident of the State of Florida and of full age, hereby subscribes and files with the Department of State of the State of Florida these Articles of Incorporation for the purpose of forming a not-for-profit corporation under the laws of the State of Florida.

ARTICLE I NAME AND PRINCIPAL OFFICE

The name of this corporation is HIDDEN WATERS PROPERTY OWNER'S ASSOCIATION, INC., a Florida not-for-profit corporation (hereinafter called the "Association" in these Articles). The initial principal office and mailing address of the Association is: 7201 Water's Way, Englewood, FL 34224.

ARTICLE II OFFICE AND REGISTERED AGENT

The initial registered office of the Association is 7201 Water's Way, Englewood, FL 34224. The initial registered agent of the Association is Gregory F. Weyers, who maintains a business office at 7201 Water's Way, Englewood, FL 34224. Both the Association's registered office and registered agent may be changed from time to time by the Board of Directors as provided by law.

ARTICLE III PURPOSE

The specific purpose for which this Association is formed is to act as an owner's association for the Hidden Waters Subdivision and to provide for the maintenance, preservation and architectural control of common areas and residential lots within the Hidden Waters community located or to be located on that certain tract of property (hereinafter called the "Properties") in Charlotte County, Florida, referred to as Hidden Waters Subdivisoin and more particularly described as:

All of Hidden Waters Subdivision (including all present and future plats thereof) according to any map or plat or any portion thereof, recorded or to be recorded in the Public Records of Charlotte County, Florida, as such platted property may be extended and amended from time to time.

This Association does not contemplate pecuniary gain or profit to its members.

ARTICLE IV POWERS

Without limitation this Association is empowered to:

(a) Declaration. Exercise all rights, powers, privileges, and perform all duties of this Association set forth in that certain Declaration of Covenants, Conditions, and Restrictions for Hidden

Waters Subdivision (hereinafter called the "Declaration") applicable to the Properties and recorded or to be recorded in the Public Records of Charlotte County, Florida, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as set forth in full;

(b) Property. In any lawful manner, acquire, own, hold, improve, manage, operate, maintain, repair, replace, operate, convey, sell, lease, transfer, assign, and otherwise dispose of property of any nature whatsoever, real, personal, or mixed, tangible or intangible, in connection with this Association's affairs;

(c) Assessments. Fix, levy, collect, and enforce by any lawful means all charges or assessments established by, or pursuant to, the Declaration; and to use and expend the proceeds of assessments in the exercise of its powers and duties hereunder;

(d) Costs. Pay all costs, expenses, and obligations lawfully incurred in connection with this Association's affairs including, without limitation, all licenses, taxes, or other governmental charges levied or imposed against this Association's property;

(e) Borrowing. Borrow money and, with the approval of two-thirds (2/3) of the members, mortgage, pledge, hypothecate, assign, grant security interests in, or otherwise transfer any or all of its property as security for money borrowed, debts incurred, or any of its other obligations;

(f) Dedications. With the approval of two-thirds (2/3) of the members, dedicate, sell or transfer all or any part of its property to any public agency, authority, or utility;

(g) Rules. From time to time adopt, alter, amend, rescind, and enforce reasonable rules and regulations governing the use of the Properties (as those terms are defined in Declaration) consistent with the rights and duties established by the Declaration and these Articles;

(h) General. Have and exercise all common law rights, powers, and privileges and those that a corporation not-for-profit may now or hereafter have or exercise under the laws of the State of Florida, together with all other rights, powers, privileges, reasonably to be implied from the existence of any right, power, or privilege so granted, or granted by the Declaration or these Articles, or reasonably necessary to effectuate the exercise of any right, power, or privilege so granted;

(i) Enforcement. To enforce by legal means the obligations of the members of this Association and the provisions of the Declaration;

(j) Litigation. To sue or be sued;

(k) Surface Water Management. Operate and maintain the surface water management system facilities, including all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, flood plain compensation areas, wetlands and any associated buffer areas, and wetland mitigation areas, and to contract for services for operation and maintenance of the surface water management facilities of the Properties;

(m) Utilities. Operate and maintain central water and sewer and underground utilities, and to contract for services for operation and maintenance of said utilities;

- (n) Roads. Operate and maintain all roads, road lighting, and gates, within the subdivision, and to contract for services for operation and maintenance of said roads, road lighting, and gates;
- (o) Other. Engage in all lawful acts permitted or authorized by law.

ARTICLE V MEMBERSHIP

Every person who from time to time holds the record fee simple title to, or any undivided fee simple interest in, any lot (as defined in the Declaration) that is subject to the provisions of the Declaration is a member of this Association, including contract sellers, but excluding all other persons who hold any interest in any lot merely as security for the performance of an obligation. An owner of more than one lot is entitled to one membership for each lot owned. Membership is appurtenant to, and may not be separated from, ownership of a lot that is subject to the provisions of the Declaration, and membership may not be transferred other than by transfer of title to such lot. Each membership is transferred automatically by record conveyance or other transfer of title of a lot. Until lots are platted, the Developer (as defined in the Declaration) is the sole member.

ARTICLE VI VOTING RIGHTS

There shall be two (2) classes of members as set forth in the Declaration, being Class A and Class B. The voting rights of members are as set forth in the Declaration. Whenever a provision herein calls for approval of members it means approval of each class of members. Until there are Class A members, Developer shall have the sole right to vote on any matters that require or permit the vote of members.

ARTICLE VII BOARD OF DIRECTORS

This Association's affairs are managed by a Board of Directors initially composed of three Directors. The number of Directors from time to time may be changed by amendment to this Association's By-Laws, but at all times it must be either three (3) members or five (5) members. Directors must be Association members. Election of Directors shall take place in accordance with the By-laws of the Association; cumulative voting for Directors is not permitted.

ARTICLE VIII DURATION

This Association exists perpetually.

ARTICLE IX

This Association may be dissolved in the manner from time to time provided by the laws of the State of Florida and with the consent given in writing and signed by not less than two-third (2/3) of the members. Upon dissolution of this Association, all of the Association's assets, together with the control or right of access to any property containing the surface water management system facilities, roads, lighting and gates facilities, shall be conveyed or dedicated to an appropriate governmental unit or public utility to be used for purposes similar to those for which this Association was created. If any such

conveyance or dedication is refused, such assets, together with the control of right of access to any property containing the surface water management system facilities, roads, lighting and gate facilities, shall be granted, conveyed, and assigned to a non-profit corporation or other organization similar to the Association and devoted to similar purposes. In no event, however, may any assets inure to the benefit of any member or other private individual.

ARTICLE X BY-LAWS

This Association's By Laws will initially be adopted by the Board of Directors. Thereafter, the By-Laws shall be altered, amended, or rescinded solely by the approval of the Board of Directors.

ARTICLE XI AMENDMENTS

Amendments to these Articles may be proposed and adopted in the manner from time to time provided by the laws of the State of Florida, provided that each such amendment must have the approval of two thirds (2/3) of the members.

ARTICLE XII FNMA/FHA/VA APPROVAL

As long as there is a Class B membership in the Association, the following actions will require the prior approval of the Federal National Mortgage Association (FNMA), Federal Housing Administration (FHA) or Veterans Administration (VA) if determined necessary by the Developer and such agencies:

- (a) Amendment of these Articles of Incorporation; or
- (b) Merger, consolidation and/or dissolution of the Association
- (c) Annexation of additional properties
- (d) Mortgaging of Common Area.

ARTICLE XIII INTERPRETATION

Express reference is made to the Declaration if necessary to interpret, construe, and clarify the provisions of these Articles. By subscribing and filing these Articles, the incorporator intends for its provisions to be consistent with the provisions of the Declaration and to be interpreted, construed, and applied with those of the Declaration to avoid inconsistencies or conflicting results. In the event of a conflict, the order of priority for interpretation shall be: the Declaration, these Articles, and the By-laws of the Association.

ARTICLE XIV

The name and address of the incorporator is:

Name: Gregory F. Weyers
Address: 7201 Water's Way
Englewood, FL 34224

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Florida, I, the undersigned, constituting the incorporator of this Association, have executed these Articles of Incorporation this 8th day of June, 2007.



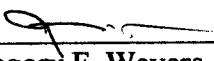
Gregory F. Weyers
Incorporator

CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE SERVICE OF PROCESS WITHIN THE STATE OF FLORIDA AND NAMING THE REGISTERED AGENT UPON WHOM SERVICE OF PROCESS MAY BE SERVED

HIDDEN WATERS PROPERTY OWNER'S ASSOCIATION, INC., desiring to organize under the laws of the State of Florida as a corporation not for profit with its principal office as indicated in its Articles of Incorporation has named Gregory F. Weyers, whose business office is 7201 Water's Way, Englewood, FL 34224, as its registered agent to accept service of process within Florida.

ACCEPTANCE

Having been named to accept service of process for the foregoing corporation at the place designated in this certificate, I hereby agree to act in this capacity, and I further agree to comply with the provisions of all statutes, including the duties and obligations imposed by Section 617.0503, Florida Statutes, relative to the proper and complete performance of my duties.



Gregory F. Weyers
Date: June 8, 2007

EXHIBIT "D"

BY-LAWS OF HIDDEN WATERS PROPERTY OWNERS ASSOCIATION

ARTICLE I NAME AND LOCATION

The name of the corporation is HIDDEN WATERS PROPERTY OWNERS ASSOCIATION hereinafter referred to as the "Association." The initial principal office of the corporation shall be located at 7201 Waters Way, Englewood, FL 34224, or such other place as is designated by the Board of Directors, but meetings of the members of this Association and directors may be held at such places as may be designated by the Board of Directors.

ARTICLE II DEFINITIONS

The definitions of capitalized terms set forth in the Declaration of Covenants, Conditions, and Restrictions for Hidden Waters Subdivision (the "Declaration") are hereby incorporated by reference.

ARTICLE III MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members of this Association (the "Members") shall be held within the first ninety (90) days of the calendar year subsequent to the year of incorporation of the Association, and each subsequent regular annual meeting of the Members shall be held within the same calendar quarter of each succeeding year at the discretion of the Board of Directors. Member meetings will not be held on any day that is 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 Class A Membership.

Section 3. Notice of Meetings. 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 sending a copy of such notice, by mail, postage prepaid, hand delivery or electronic transmittal, at least 14 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. Notice shall also be posted in a conspicuous place 48 hours in advance of the meeting. Such notice shall specify the place, day and hour of the meeting, 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 limited or general proxies entitled to cast, twenty percent (20%) 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 By-laws. 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. Unless otherwise provided in these By-Laws, the Articles of Incorporation or Declaration, decision shall be made by a majority of the voting interests represented at a meeting at which a quorum is present.

Section 5. Proxies. At all meetings of Members, each Member may vote in person or by limited proxy. All proxies shall be in writing and filed with the secretary prior to its use. Every proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned meeting thereof. A proxy is not valid for a period longer than 90 days after the date of the first meeting for which it was given. A proxy is revocable at any time at the pleasure of the Member who executes it. Limited proxies may also be used for votes taken to amend the Articles of Incorporation or these By-Laws or for any matter that requires or permits a vote of the Members.

ARTICLE IV BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Number and Qualification. The affairs of this Association shall be managed by a board of three (3) directors appointed by Risk All, LLC ("Developer") who shall serve at the pleasure of the Developer (or any party to which Developer assigns such rights). Thereafter the Board of Directors shall consist of either three (3) members or five (5) members as determined by the Members at each annual meeting. Only Members of the Association may be elected as members of the Board of Directors.

Section 2. Term of Office. The term of office for all Directors shall be one year. The initial Directors of the Association set forth in the Articles of Incorporation shall hold office as determined by Developer (or any such party to which Developer has assigned such rights). Thereafter, election of Directors shall take place at each annual meeting.

Section 3. Removal and Vacancies. Regardless of any provision in the governing documents, any board member or director can be voted out, with or without cause, by a majority vote of the Members of the Association. However, if elected by a certain class of members, that is the only class that can vote to recall. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining members of the Board of Directors 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 V NOMINATION AND ELECTION OF DIRECTORS

Section 1. During Class "B" Control Period. During the Class "B" Control Period, Developer (or any such party to which Developer has assigned such rights) shall appoint the members of the Board of Directors, who shall serve at the pleasure of Developer (or any such party to which Developer has assigned such rights). After the end of the Class "B" Control Period, Members shall be entitled to elect a majority of the members of the Board of Directors in accordance with this Article.

Section 2. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nomination

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 Nomination 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 next annual meeting and such appointment shall be announced at each annual meeting. The Nomination 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. After the end of the Class "B" Control Period, such nominations may be made from among Members.

Section 3. Election. Election to the Board of Directors shall be by secret written ballot. At such election the Members 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.

Section 4. Use of Proxy. For election of members of the Board of Directors, Members shall vote in person at a meeting of the Members or by a ballot that the Member personally casts.

ARTICLE VI MEETINGS OF DIRECTORS

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

(a) adopt and publish rules and regulations governing the use of the Common Areas and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and rights to use of the Common Areas of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provision of these By-Laws, the Articles of Incorporation, or the Declaration;

(d) 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; and

(e) employ a manager, an independent contractor, or such other employees as they deemed necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Association, by and through the Board of Directors to:

(a) 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, at least ten (10) days prior to the meeting or special meeting; all such records to be retained for at least seven (7) years;

- (b) supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration to:
 - (1) establish the annual Association budget and fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;
 - (2) send written notice of each annual budget to every Owner with ten (10) days after written request for same;
 - (3) foreclose the lien against any Lot for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the Owner personally obligated to pay the same; and
- (d) issue or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. Reasonable charges may be made by the Board of Directors for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.
- (e) procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (g) cause the Common Areas to be maintained; and
- (h) establish prior to the beginning of the fiscal year and prior to setting the assessments of the coming year, an annual budget for the Association, including maintenance of Common Areas and to establish reserve accounts for replacement of those parts of the Common Areas which have a limited useful life span.
- (i) initiate or defend litigation on behalf of the Association.

Section 3. Meetings. A meeting of the Board of Directors occurs whenever a quorum of the Board gathers to conduct Association business. All meetings of the Board of Directors are open to all Members, except for meetings between the Board of Directors and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notices of all Board of Directors meetings must be posted in a conspicuous place on the Property at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place on the Property, notice in writing of each Board of Directors meeting must be mailed or delivered to each Member at least 7 days before the meeting, except in an emergency. With respect to any Board of Directors meeting at which an assessment or special assessment will be considered or levied, or at which any rules that regulate the use of the parcels in the Property may be adopted, amended or revoked, written notice of the meeting must be mailed, delivered, or electronically transmitted to each Member and posted in a conspicuous place on the Property not less than fourteen (14) days before the meeting. Such notice must include a statement that the assessments or special assessments will be considered at the meeting and the nature of the assessments, and/or that changes to the rules regarding the use of the parcels in the Property will be considered at

the meeting, as applicable. Directors may not vote by proxy or by secret ballot at Board of Directors meetings, except that secret ballots may be used in the election of officers.

ARTICLE VII OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. 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 of Directors 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 each 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 of Directors 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 of Directors 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 of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the president or the secretary. Such resignation shall take effect on the date or receipt of such notice or at any later time specified therein, and unless otherwise 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 by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaced.

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:

President

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

Vice-President

(b) 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 of Directors.

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors 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 of Directors and of the Members; keep appropriate current records showing Members of the Association together with their addresses, and shall perform such other duties as required by the Board of Directors.

Treasurer

(d) 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 or have prepared 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 VIII COMMITTEES

The Association shall appoint a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE IX BOOKS AND RECORDS

Section 1. 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 By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost. If the Association has a copy machine, it must provide Owners with copies requested if fewer than twenty-five (25) pages. The Association may charge up to \$.50 per page. If the copies requested exceed twenty-five (25) pages, an outside vendor may be used and actual costs may be charged.

Section 2. Minutes of all meetings of Members and of the Board of Directors shall be kept in a businesslike manner and shall be available for inspection by Members, or their authorized representatives, and Board members at reasonable times. The Association shall retain these minutes for at least seven (7) years.

Section 3. The Association shall maintain each of the following items, when applicable, which shall constitute the official records of the Association:

(a) A copy of the plans, specifications, permits, and warranties for the improvements to the Common Areas, if any, but not including the construction drawings of the individual homes and lots.

(b) A copy of the By-Laws of this Association and of each amendment to the By-Laws.

(c) A copy of the Articles of Incorporation of the Association, or other documents creating the Association, and of each amendment thereto.

(d) A copy of the Declaration and each amendment thereto.

(e) A copy of the current rules of the Association.

(f) The minutes of all meetings of the Association, of the Board of Directors and of

Members, which minutes shall be retained for at least seven (7) years.

(g) A current roster of all Members and their mailing addresses, parcel identifications, and, if known, telephone numbers.

(h) All current insurance policies of the Association or a copy thereof, which policies must be retained for at least seven (7) years.

(i) A current copy of all contracts to which the Association is a party, including any agreement, lease, or other contract to which the Association is a party or under which the Association has an obligation or responsibility. Bids for work to be performed shall also be considered official records and shall be maintained for a period of one (1) year.

(j) Accounting records for the Association and separate accounting records for each parcel, according to generally accepted accounting principles. All accounting records shall be maintained for at least seven (7) years. The accounting records shall be open to inspection by Members or their authorized representatives at reasonable times. The failure of the Association to permit inspection of its accounting records by a Member or their authorized representative entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the books and records who, directly or indirectly, knowingly denied access to the books and records for inspection. The accounting records shall include, but are not limited to:

1. Accurate, itemized, and detailed records of all receipts and expenditures.

2. A current account and a periodic statement of the account for each Member of the Association, designating the name of the Member, the due date and amount of each assessment, the amount paid upon the account, and the balance due.

3. All tax returns, financial statements, and financial reports of the Association.

4. Any other records that identify, measure, record, or communicate financial information.

(k) A copy of the disclosure summary requested by Section 720.401(1), Florida Statutes.

(l) All other records related to the Association's operation, except matters governed by the attorney-client privilege.

**ARTICLE X
ASSESSMENTS AND FINES**

Section 1. As more fully provided in the Declaration, each Member is obligated to pay to the Association all assessments as listed in the Declaration, which are secured by a continuing lien upon the property against which the assessment is made. Any assessments that are not paid when due shall be delinquent. If the assessment is not paid within ten (10) days after the due date, the assessment shall bear interest at the rate of eighteen percent (18%) per annum and shall be subject to a late fee of twenty-five dollars (\$25.00). The Association may bring an action at law against the Owner personally obligated to pay the same or foreclosure 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, provided however, in no event shall this interest rate exceed the maximum allowed by law. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Property or abandonment of his Lot.

Section 2. The Association has the power to levy fines up to the maximum amount allowed by law from time to time, but fines shall not become a lien against a Lot.

**ARTICLE XI
CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the words: Hidden Waters Property Owners Association, Inc., and within the center the word "Florida" and the year of incorporation.

**ARTICLE XII
AMENDMENTS**

Section 1. This Association's By-Laws will initially be adopted by the Board of Directors. Thereafter, the By-Laws shall be altered, amended, or rescinded solely by the approval of the Board of Directors. In certain circumstances set forth in the Declaration or as may be set forth in any future supplemental declaration the members may have authority to approve amendments to the By-laws; in those circumstances such provisions shall control the alteration, amendment or rescission of the By-laws.

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

**ARTICLE XIII
MISCELLANEOUS**

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 XIV
RIGHT OF MEMBERS TO PEACEFULLY ASSEMBLE**

All common areas serving any homeowners' association shall be available to Members and their invited guests for the use intended for such areas. The entity or entities responsible for the operation of the common

areas may adopt reasonable rules and regulations pertaining to the use of such common areas. No entity or entities shall unreasonably restrict any Member's right to peaceably assemble or right to invite public officers or candidate for public office to appear and speak in common areas.

**ARTICLE XV
INDEMNIFICATION OF OFFICERS AND DIRECTORS**

To the fullest extent permitted by law, the Association shall indemnify any person who is or was a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or other type of proceeding (other than an action by or in the right of the Association), whether civil, criminal, administrative, investigative or otherwise, and whether formal or informal, by reason of the fact that such person is or was a director or officer of the Association or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against judgments, amounts paid in settlement, penalties, fines (including an excise tax assessed with respect to any employee benefit plan) and expenses (including attorneys' fees, paralegals' fees and court costs) actually and reasonably incurred in connection with any such action, suit or other proceeding, including any appeal thereof, if such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any such action, suit or other proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner that such person reasonably believed to be in, or not opposed to, the best interests of the Association or, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful. The foregoing indemnification obligations shall be controlled and interpreted by applicable Florida statutes with respect to the indemnification of directors and officers of a not-for-profit corporation.

Adopted pursuant to Organizational Minutes of the Association as of June 5th, 2007