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DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
SILVER CREEK

THIS DECLARATION, made on the date hereinafter set forth by SC Development Enterprises, LLC, a Florida limited liability company, hereinafter referred to as "Developer".

WITNESSETH:

WHEREAS, Developer is the owner of certain property (hereinafter referred to as "Property") in Clay County, State of Florida, which is more particularly described in Exhibit "A" and to be all lots shown on Plat of SILVER CREEK as it shall be recorded in the public records of Clay County, Florida.

NOW THEREFORE, Developer hereby declares that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, parties having any right, title or interest or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ADDITIONAL LAND

The Developer may (but has no obligation to, and shall not be required to) annex additional land (hereinafter referred to as "Additional Land"), now or hereafter owned by Developer, its successors or assigns, without the consent of any Owner, or mortgagee of any Owner (unless required by the Federal Housing Administration, the Veterans Administration, or the Federal National Mortgage Association), at any time within five (5) years of the date of this Declaration. One or more Supplemental Declarations of Annexation thereof may annex Additional Land or portions from time to time, in accordance with the provisions of Article IX hereof.

ARTICLE 1 - DEFINITIONS

Section 1. "Association" shall mean and refer to Silver Creek of Clay County Homeowners Association, Inc., a Florida Corporation, not for profit, hereafter incorporated by Developer pursuant to Article III, Section 1 hereof, its successors and assigns.

Section 2. "Board" shall mean the Board of Directors of the Association as duly elected from time to time in accordance with the Bylaws of the Association;

Section 3. "Owner" shall mean and refer to the record Owner, whether one of more persons or entities, of a fee simple or undivided fee simple interest in any Lot which is part of the Property, as defined below, including contract sellers, but excluding those having such interest merely as

security for the performance of an obligation, unless and until such secured party has acquired title pursuant to foreclosure or any proceeding in lieu thereof.

**Section 4.** "Plat" shall mean the Plat of SILVER CREEK, recorded in the public records of Clay County, Florida.

**Section 5.** "Property" or "Properties" shall mean and refer to that certain real property herein before described, together with improvements thereon, and such additions thereto as may hereafter be brought within the jurisdiction of the Association by annexation, as provided in Article IX.

**Section 6.** "Lot" shall mean and refer to any plot of land, together with the improvements thereon, if any, shown upon the recorded plat excepting dedicated roadways or streets, thereon, and shall include all lots as shown on a recorded or preliminary plat of any property brought within the jurisdiction of the Association by annexation, as provided in Article IX.

**Section 7.** "Common Area" shall mean all real property if any and improvements thereon hereafter owned by the Association for the common use and enjoyment of the Owners. At the time of recording of this Declaration there are no Common Areas. Any provisions of this Declaration, or the Articles of Incorporation or Bylaws of the Association relating to the Common Areas will become effective only if this Declaration is amended to add Common Areas or if the Association should acquire Common Areas.

**Section 8.** "Developer" shall mean and refer to SC Development Enterprises, LLC, its successors and assigns, if such successors or assigns should acquire more than one undeveloped lot from the Developer for the purpose of development. Notwithstanding any other provisions of this Declaration, an Owner other than Developer who acquires an interest in more than one Residential Lot for the purpose of the development of the Property or the construction of Residential Dwelling Units and who has not otherwise been assigned the rights of Developer pursuant to this Declaration shall not be a Developer for purpose of this Declaration.

**Section 9.** "Dwelling Unit" shall refer to any dwelling unit or living unit constructed or to be constructed on the Property, together with all additions to or replacements of such dwelling or living units whether free standing, connected to another dwelling unit by a common party wall, or within a single building containing more than one dwelling unit. A dwelling unit shall contain a minimum of twelve hundred (1200) square feet of heated and air conditioned living space. A dwelling unit shall also contain an enclosed two (2)-car garage that is attached to the dwelling unit.

**Section 10.** "Front Yard" shall refer to that portion of a lot lying between the line of the front foundation of the Dwelling Unit constructed thereon (and the extension of such front foundation line to its intersection with the side boundary lines of the lot) and the front lot line of said lot or to the public street.

**Section 11.** "Rear Yard" shall refer to that portion of a lot lying between the line of the rear foundation of the Dwelling Unit constructed thereon (and the extension of such rear foundation line to its intersection with the side boundary lines of the lot) and the rear lot line of said lot.

**Section 12.** "Surface Water or Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, F.A.C.

**Section 13.** "Set Back Lines" shall refer to the distance of the Front Yard and Rear Yard which shall be twenty (20) feet and ten (10) feet respectively and the minimum Side Yard Set Back shall be five (5) feet.

## **ARTICLE II - PROPERTY RIGHTS**

**Section 1. Owner's Easements of Enjoyment.** In the event this Declaration is amended to add Common Areas, then every Owner shall have a right and easement of ingress and egress and enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against the Owner's Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations. Notwithstanding the foregoing, in no event may the Association deny an Owner the use of any entrance areas or private roads so as to prohibit ingress and egress to the Owner's Lot.

(b) The right of the Association to dedicate or transfer all or any part of the Common Area or to grant permits, licenses or easements therein or there over, to any public agency, authority or public or private utility for roads or utility services or other purposes reasonable necessary or useful for the proper maintenance or operation of the Property, or for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two thirds (2/3 rd) of each class of members has been recorded in the public records of Clay County, Florida.

(c) The easements and rights described in Sections 3, 4, 5, 6 and 7 of this Article II.

**Section 2. Delegation of Use.** Any Owner may delegate, in accordance with by Bylaws, the Owner's right of enjoyment to the Common Area and facilities, if any, to the members of the

Owner's family, tenants, or "agreement for deed" purchasers who reside on the Property.

**Section 3. Utility Easement and Maintenance.**

(a) Developer hereby reserves, unto itself, its successors and assigns, a perpetual, transferable and releasable easement, privilege and right to install, erect, maintain, repair, replace and operate utility lines and facilities (including without limitation, electric, telephone, water, sewerage and drainage lines, cables and conduits; water mains; drainage lines and ditches; sewer lines and force mains; and any other equipment for providing water, sewage, disposal, electrical, telephone, gas, heating, cable television or other communications or utility services) in, over and under all of the following described property (except any portion thereof upon which Developer has erected any portion of a Dwelling Unit or other improvements):

- (i) All easements shown on the Plat (whether such easements are shown thereon to be for utility, drainage or other purposes);
- (ii) The rear seven and one-half (7-½) feet of each lot;
- (iii) An area five (5) feet in width lying immediately adjacent to and along each interior side lot line of each Lot;

Together with the right of ingress and egress for the purpose of exercising the easements herein reserved. The Developer shall have the unrestricted right and power to alienate, transfer and release privileges, easements and rights referred to in this paragraph and to grant additional non-exclusive easements to utility companies serving the Property to install, operate, maintain, repair and replace utility lines and equipment in the above described easement area. The Owners of each Lot subject to the privileges, rights and easements referred to in this paragraph shall acquire no right, title or interest in or to any wires, cables, conduits, pipes, mains, lines or other equipment or facilities placed on, over or under the property which is subject to said privileges, rights and easements. All such easements, including those designated on the plat are and shall remain private easements and the sole exclusive property of the developer and its successors and assigns. In the event any lot in this plat is subdivided, then the side lot line will be deemed to have been moved according to its new dimensions and the former five foot side line easement, will be deemed to follow on each side of the new lots thus created.

(b) Each utility company providing service to any Dwelling Unit on the property, its successors, assigns, agents and employees, shall have a perpetual and unobstructed easement and right of entry upon each Lot to the extent necessary or convenient to permit the installation, maintenance, replacement, removal, repair, servicing and reading of utility meters on any Lot. No owner, occupant or tenant of any Dwelling Unit shall erect any fence or any locked gate, which inhibits such access.

(c) All utility lines serving one Dwelling Unit shall only be maintained by the Owner or Owners of the Dwelling Units served thereby from the Dwelling Units served to the point where such lines connect to the main line. All other utility lines, including drainage lines, drainage ditches and drainage retention ponds, lakes or basins, and all associated drainage structures serving or providing drainage of the Property, shall be maintained by the Association.

(d) Developer hereby reserves unto itself, its successors and assigns, for the use and benefit of the Additional Land, and any other property now or hereafter owned by Developer, whether or not the same shall become subject to this Declaration, a non-exclusive, perpetual and transferable easement for drainage over and through all drainage ditches, lines, and retention areas, if any, upon the Property.

**Section 4. Sewage Disposal.** A central sewage disposal system operated by the Clay County Utility Authority will provide sewage disposal service to each lot.

**Section 5. Additional Easements.**

(a) Additional easements may be reserved or granted by Developer with respect to any Lot at any time prior to the time that Lot is conveyed to an Owner other than Developer.

(b) Developer hereby reserves unto itself, its successors and assigns, a perpetual, non-exclusive and transferable easement over the roadway areas as shown on the Plat for ingress and egress and for the purpose of installing utility lines, cables and equipment for serving any other property now or hereafter owned by Developer, whether or not this Developer is amended to add such property to the lands encumbered by this Declaration.

**Section 6. Surface Water or Stormwater Management System.**

(a) The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system within the road right-of-way only. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted, or if modified, as approved by the St. Johns River Water Management District. The homeowner of the each lot must maintain all on-site treatment swales.

(b) **Upland Buffers.**

- 1) **Purpose:** The purpose of this upland buffer is to assure that the property will be retained forever in its existing natural condition and to prevent any use of the Property that will impair or interfere with the environmental value of the Property and to provide the necessary treatment prior to runoff discharge.
- 2) **Prohibited Uses:** Any activity on or use of the Property inconsistent with the purpose of this upland buffer and treatment swale is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:
  - a) Construction or placing buildings, roads, signs, billboards or other

advertising, utilities or other structures on or above the ground.

- b) Dumping or placing soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials.
- c) Removing or destroying trees, shrubs, or other vegetation.
- d) Excavating, dredging or removing loam, peat, gravel, soil, rock or other material substances in such a manner as to affect the surface.
- e) Surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition.
- f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
- g) Acts or uses detrimental to such retention of land or water areas.

3) Location: The upland buffers are depicted as Tracts E on the recorded plat.

(c) Easement for Access and Drainage. The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any lot which is part of the surface water or stormwater management system, at a reasonable time and a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District.

**Section 7. Deed Restrictions on lots:**

(a) "Surface Water or Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, F.A.C.

(b) Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St.

Johns River Water Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted, or if modified, as approval by the St. Johns River Water Management District.

(c) Any amendment to the Deed Restriction which alters the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the St. Johns River Water Management District.

(d) The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Deed Restriction which relate to the maintenance, operation and repair of the surface water or stormwater management system.

**ARTICLE III - FORMATION OF ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS**

**Section 1. Formation of Association.** Prior to the sale or transfer by Developer of the first Lot encumbered by this Declaration, Developer shall create a Florida Corporation, not for profit, for the purpose of carrying out the responsibilities and exercising the rights set forth in this Declaration to be exercised by the Association. Upon the creation of such Association, Developer, its successors or assigns, shall make and record in the public records of Clay County, Florida, a Special Amendment to this Declaration, attaching as an Exhibit thereto a copy of the Articles of Incorporation of the Association, as filed with the Secretary of State of Florida. Such Special Amendment may be made by Developer, its successors or assigns, without the consent or joinder of any other Owner or the holder of any Mortgage upon any Lot or any interest in the Property. Upon the creation of the Association and the recording of such Special Amendment, every current and subsequent Owner of a Lot, which is subject to this Declaration, shall be a member of the Association.

Membership shall be appurtenant to and may not be separated from ownership of any Lot, which is subject to this Declaration. Ownership of such lot shall be the sole qualification for membership.

**Section 2. Membership and Voting Rights.** The Association shall have two classes of voting membership:

**Class A.** Class A members shall be all Owners, with the exception of the Developer, and shall be entitled to one vote for each Lot in which they hold an interest. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

**Class B.** The Class B member(s) shall be the Developer and shall be entitled to three

(3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) One hundred and twenty (120) days after the conveyance that makes the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(b) Five years after the conveyance of the first lot to a Class A member; provided, however, that the Class B membership shall be reinstated upon annexation to the properties of any additional residential property and/or common area, but subject to further cessation in accordance with the limitations set forth in the preceding paragraphs (a) and (b) of this Article III, whichever occurs first.

#### **ARTICLE IV - COVENANTS FOR MAINTENANCE ASSESSMENTS**

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** The Developer, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest and costs of collection and reasonable attorney's fees, against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to any successors in title unless expressly assumed by them.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Property, including but not limited to the following:

(a) For the improvement and maintenance of the Common Area, if any, which Developer hereby covenants and agrees to maintain until such time as an Association is formed pursuant to Article III;

(b) For the maintenance, improvement and operation of the surface water or stormwater management systems including but not limited to work within retention areas, drainage structures and drainage easements, surface and subsurface drainage systems, lakes or ponds and all associated drainage structures serving or providing drainage of all Property; all of which Developer hereby covenants and agrees to maintain until such time as an Association is formed pursuant to Article III, after which time the Association will be fully responsible for such and indemnify and hold Developer harmless from any liability, expense, action or claim whatsoever in connection with the maintenance, improvement and operation of the systems;

The Association shall maintain the lake(s) or pond(s) within the property notwithstanding that



such may be located entirely within one or more Lots. Subject to the rights of the Clay County, Florida, and other governmental authorities, the Association shall have the exclusive right to determine and control water quality and the growth and removal of plants, fungi, waterfowl and animals within the lake(s) or pond(s) and wetlands. This subsection is not intended to supersede any provisions contained in this Declaration or elsewhere that require lakefront lot owners to maintain the embankment adjacent to the lake or pond on their lots, except the Association shall be responsible for maintenance of any shoreline embankment separated by the lake or pond from the portion of the Owner's lot upon which the house is constructed;

(c) To maintain in good condition and repair any entrance signs and any landscaping serving any entranceway to the Property described herein, and to maintain any Median areas or other landscaped areas which are within the rights of way as shown on the plat; all of which Developer hereby covenants and agrees to maintain until such time as an Association is formed pursuant to Article III;

(d) To do anything necessary and desirable, in the judgment of the Association, to keep the Property neat and attractive or to preserve or enhance the value thereof, or to eliminate fire, health or safety hazards, or which, in the judgment of the Association, may be a benefit to the Owners of the Property;

**Section 3. Annual Assessment.**

(a) The Board or its designees shall annually prepare a budget covering the estimated Annual Assessments of the Association for the coming year. The Annual Assessment to be levied for the coming year against each Lot subject to assessment shall be computed by dividing the budgeted Common Expenses by the total number of Lots subject to this declaration.

(b) The Association, in determining the common expenses, shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the property and common area, if any, and such reserve fund shall be maintained out of regular assessments for common expenses.

**Section 4. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to the year only to meet bona fide expenses of the Association not anticipated to be incurred on a regular or annual basis, or to cover improvements upon a Lot which the Owner thereof is responsible to make under Article VII hereof, but has failed to make, or for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement or a capital improvement upon the Property or Common Area, if any, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

**Section 5. Notice and Quorum for Action Under Sections 3 and 4.** Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent

to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of members or of proxies entitled to cast a majority of all the votes of each class or membership shall constitute a quorum.

**Section 6. Uniform Rate.** Both annual and special assessments must be fixed at a uniform rate for all Lots, subject to the two tiers of rates set forth in Section 3 above. The Assessments are annual and shall be collected annually.

**Section 7. Date of Commencement of Annual Assessments; Capital Contribution; Due Dates.** The annual assessments provided for herein shall commence as to all Lots on the first day following the first sale of a Lot by Developer. The first annual assessment shall be due for each Lot at the closing of such Lot sold by Developer to an Owner other than Developer. The first annual assessment shall be prorated according to the number of months remaining in the calendar year. The Declarant shall collect a Capital Contribution fee equal to two (2) months the Annual Assessment at the first closing of the sale of each Residential Unit. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period, except that the first annual assessment may be fixed any time prior to the first due date. Written notice of the annual assessment shall be sent to every Owner subject thereto. In the event that the assessment is not paid on or before the 25th day of the month a late penalty in an amount to be determined from time to time by the Board, but not to exceed fifteen percent (15%) of the assessment shall be due and payable. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in writing setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

**Section 8. Effect of Non-payment of Assessments; Remedies of the Association.** Any assessments, which are not paid when due, shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the rate of fifteen percent (15%) per annum. The Association may bring an action at law against the Owner personally obligated to pay it or foreclose the lien against the Lot, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing, waiving or otherwise impairing the Association's lien, or its priority. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Property or Common Area, if any, or abandonment of the owner's lot.

**Section 9. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein upon any Lot shall be subordinate to the lien of any first mortgage upon that Lot unless notice of the assessment lien is filed in the public records of Clay County, Florida, prior to the recording of such mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments, which became due prior to such sale or transfer. A foreclosure sale, or a proceeding in lieu thereof, shall not, however, extinguish the personal liability of the Owner whose interest was foreclosed for any assessment upon the Owner whose interest was foreclosed for any assessment upon the Owner's Lot which

became due prior to the date of such sale. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Any such delinquent assessments, which were extinguished pursuant to the foregoing provision, may be reallocated and assessed against the remaining Lots as a common expense.

**Section 10. Exempt Property.** All property dedicated to, and accepted by, a local public authority or utility company, and all property designated as Common Area, if any, and model units or sales offices shall be exempt from the assessment created herein, except no land or improvements devoted to dwelling use shall be exempt from assessments.

**Section 11. Developer Assessment.** Notwithstanding the foregoing, the Developer shall be exempt from the annual assessment charged to Owners so long as there is Class B membership as set forth in Article III. The Builder of a Residential Unit on each Lot, shall pay each month to the Association an amount equal to fifty- percent (50%) of the annual assessment due and payable for the applicable month for each Lot upon which the improvements have been completed, which Builder owns, and which is not used as a residence. At such time as the Lot is occupied, the Owner thereof, whether or not the Owner is the Developer, shall be liable for the full monthly-prorated payments of the annual assessment. Once the Lot has been occupied for residential use it shall always be subject to the payment of the full assessment, whether occupied or unoccupied.

So long as there is Class B membership, Developer hereby covenants and agrees that in the event that the total annual assessment revenues of the Association are insufficient to pay the operating expenses of the Association, it shall provide the funds necessary to make up the deficit, within thirty (30) days of receipt of request for payment thereof from the Association, provided that if the deficit is the result of the failure or refusal of an Owner or Owners to pay their annual assessment(s), the Association shall diligently pursue all available remedies against such defaulting Owners, including the immediate institution of litigation to recover the unpaid assessments, and shall reimburse the Developer the amounts, if any, so collected.

**ARTICLE V - ARCHITECTURAL CONTROL**

**Section 1. Architectural Review Committee.** The Developer, and its successors and assigns, or the board, after formation of the Association, shall appoint as a standing committee an Architectural Review Committee (the "Committee") composed of three (3) or more persons. Members of the committee shall serve at the pleasure of the Board. All applications for purposes modification of a Residential Unit or Lot shall be charged \$25.00 fee. Committee members need not be Owners.

**Section 2. Approval Rights.** The Committee, its legal representatives, successors and assigns, shall have the exclusive right to approve the site plan, architectural plans, specifications and materials for all building, structures, grading, landscaping and other improvements hereafter to be constructed on any Lot, except those Lots belonging to Developer, including but not limited to buildings, fences, walls, exterior paint color changes, patios, verandas, utility buildings and

driveways, regardless of their size or purpose or attachment to any existing residential building. No building, structure, grading, landscaping, fence or other improvement may be erected, placed performed or remain on any Lot, except those Lots belonging to Developer, unless and until a set of building plans as defined below, and such other information with respect thereto as the Committee may require, is submitted to and approved in writing by the Committee.

Notwithstanding any absolute or exclusive right or obligation of the Committee set forth in this Declaration, the Board shall have the absolute and exclusive right to review all decisions of the Committee. If the Board does not reverse or alter the Committee's decision within fifteen (15) days of receipt of the decision, the Committee's decision shall stand as final. Any written decision by the Board is final subject only to the appeal rights set forth hereafter.

**Section 3. Procedures.** The Committee shall exercise its right of review and approval in the following manner:

(a) An Owner or other party who desires to place or construct a building, structure, fence, landscaping or other improvement on a Lot or do any grading thereon shall submit two (2) complete sets of building plans, as described below, to the Committee.

(b) The building plans must include (i) specifications showing the nature, type, shape, height, size, floor plan and exterior color scheme of the proposed development, (ii) drawings describing the location and orientation of the proposed development on the Lot, its approximate square footage, and its front, side and rear elevations, (iii) a list of construction materials for the proposed development, (iv) plans for any grading and landscaping, (v) the proposed parking layout, (vi) plans for handling trash and garbage, and (vii) a construction schedule for the proposed development. The Committee may require the submission of any information that the Committee, in its sole discretion, deems necessary to the formation of an informed judgment of the proposed project.

(c) The Committee shall have the absolute right to refuse to approve any building, fencing, grading or landscaping plans or proposed improvement on any ground or grounds (including purely aesthetic considerations) which the Committee shall, in its sole discretion, deem to be sufficient.

(d) The Committee shall have thirty (30) days after the date on which all plans, specifications and other required information are submitted to approve or disapprove a proposed development, and failure by the Committee to send written notice of approval or disapproval within this time period shall be deemed an approval of the proposed development, subject to the additional fifteen (15) day review period by the Board set forth in Section 2 above.

(e) In the event that a development is approved, construction shall start promptly upon the receipt of a written notice of approval and shall be prosecuted to completion with diligence and in strict conformity with the plans and specifications upon which such approval is based.

(f) In the event that a development is disapproved, the written notice of

disapproval shall state, with reasonable detail, the reason(s) for disapproval. If, in the sole opinion of the Committee, any defects in the plans and specifications of the proposed project can be satisfactorily cured, the written notice of disapproval shall also contain the Committee's recommendations for remedying the same.

(g) The Committee or the Developer shall be entitled by appropriate action to stop any construction of, or change, or alteration in, any building, structure, landscaping or other improvement that is begun without first acquiring approval in accordance with the foregoing provisions, and shall be entitled to require that the premises be restored to its original condition at the expense of the Owner of the Lot and the person undertaking such construction, change or alteration, or either of them.

**ARTICLE VI - USE RESTRICTIONS**

In order to provide for congenial occupancy of the Property and for the protection of the value of the Lots, the use of the Property shall be in accordance with the following provisions so long as the Property is subject to this Declaration:

**Section 1. Use of Lots.** Each lot shall be used for a single household and for residential, non-commercial purposes only, except as provided herein. Nothing herein shall be construed to prohibit leasing of the Lots or the improvement thereon, provided that such leases are in compliance with Section 5 hereof. Notwithstanding the foregoing, Developer shall have the right to use any Lot or Dwelling Unit as a real estate sales office so long as that Lot or Dwelling Unit is owned by or leased to Developer.

**Section 2. Insurance.** No use shall be made of any Lot or of the Common Area, if any, which will increase the rate of insurance upon the Property or any Lot, without prior consent of the Association or the Owner of any affected Lot. No Owner shall permit anything to be done or kept on the Owner's Lot or on the Property or Common Area, if any, which will result in cancellation of insurance on any Lot or any part of the Property or Common Area, if any, or which will be in violation of any law. No waste shall be committed in the Common Area, if any.

**Section 3. Nuisances.** No noxious or offensive activity shall be allowed upon the property, or upon any Lot, nor any use or practice which is the source of annoyance or nuisance to Owners or guests or which interferes with the peaceful possession and proper use of the Property or any Lot by Owners or the Association. All parts of the Property shall be kept in a clean and sanitary condition, and no rubbish, refuses or garbage shall be allowed to accumulate nor shall any fire hazard be allowed to exist on the Property or any Lot.

**Section 4. Lawful Use.** No immoral, improper, offensive or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof, and all valid laws, zoning ordinances and regulations or all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance,

replacement, modification or repair of the Property shall be the same as is elsewhere herein specified.

**Section 5. Leasing.** All leases of the Lots or improvements thereon must be for a minimum of six (6) months and must provide that the lessee shall be bound by the provisions of this Declaration and any noncompliance by such lessee shall be the responsibility of the Owner. This section shall not apply to lease by an Owner to the Developer or premises for use as a real estate sales office. Owners of a Residential Unit leasing their home to tenants shall furnish a copy of the lease to the Association.

**Section 6. Detached Structures and Objects.** None of the following buildings, structures or objects shall be erected and maintained or allowed to remain on any Lot unless the same are located wholly within the rear yard and obscured from view from any street or any adjacent Lot or located in such manner that the same are obscured from view from any street or any adjacent Lot: pens, platforms, and houses for pets, hothouses, greenhouses, above ground storage or construction materials, wood, coal, oil and other fuels, clothes racks and clothes lines, clothes washing and drying equipment, laundry rooms, appliances, tool shops and workshops, play houses, outdoor fireplaces, barbecue pits, garbage and trash cans and receptacles, and other mechanical equipment and any other structures or object determined by Developer, the Board or the Committee to be of an unsightly nature or appearance. This provision shall not prohibit Developer from storing construction materials upon any Lot during construction of improvements thereon. All items are subject to the approval of the Board of Directors and Architectural Review Committee.

**Section 7. Temporary, Movable Structures.** Except as otherwise permitted herein, no shed, shack, trailer, tent or other temporary or movable building or structure of any kind shall be erected or permitted to remain on any Lot. This paragraph shall not however prevent the use by Developer of a temporary construction shed during the period of actual construction of Units upon Lots hereunder, nor the use of adjacent sanitary toilet facilities for workers during the course of such construction, nor the use of any Lot or Unit thereon for a sales office so long as such Lot is owned by Developer.

**Section 8. Window Air Conditioner.** No window air conditioner unit shall be installed in any building upon any Lot.

**Section 9. Antennas.** No radio or television aerial antenna or satellite dish antennas or any other exterior electronic or electric equipment or device of any kind shall be installed or maintained on the exterior of any building located on a Lot, or on any portion of any Lot not occupied by a building or other structure, unless and until Developer, the Board or the Committee shall have approved of the location, size and design thereof and the necessity thereof.

**Section 10. Trash.** Burning of trash, rubbish, garbage, leaves or other materials, in the open, by an incinerator or otherwise, is prohibited. All garbage and trash must be stored in closed containers and in such location so as to be hidden from view from any adjacent Lot or street, which shall also require approval as to the initial and approval as to, continued location, size and

design.

**Section 11. Parking, Storage, Repairs.** Except for passenger cars and pickup trucks for personal use, no vehicles (including, without limitation, boats, trailers, commercial vehicles, motor homes, mobile homes and recreational vehicles), nor any junk, abandoned, disabled or inoperable vehicles, including passenger cars and pickup trucks for personal use, nor any similar property shall be kept on any street or driveway or stored on any Lot except within a garage, or fully fenced rear yard. For purposes of this Section, "commercial vehicles" shall mean those vehicles which are not designed and used customary, personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether it is a commercial vehicle. No repairing or overhauling of any vehicle is allowed on any part of the Property of a Lot. No vehicle shall be parked in any portion of a Lot, which is not paved as a driveway or parking area. Notwithstanding the foregoing, Developer shall have the right to maintain temporary additional parking upon any Lot owned or leased by Developer and used as a real estate sales office.

**Section 12. Condition of Lots.** Each owner shall maintain the entire Lot (and the improvements thereon) in a neat and clean condition at all times. No trash, garbage, rubbish, debris, refuse or unsightly objects shall be allowed to be placed accumulated, or suffered to remain anywhere on any Lot or street.

**Section 13. Drying.** Outdoor drying of wash is prohibited.

**Section 14. Animals.** No animals, livestock or poultry of any kind shall be raised, bred or maintained on any Lot or other portion of the Properties. There shall be allowed no more than two (2) domesticated dogs, cats or other household pets for each Dwelling Unit provided such pets are kept for the pleasure and use of the Owner, and not for commercial purposes, and provided that such pets shall not be permitted to run free. If, in the sole discretion of Developer or the Board, any of said pets become dangerous or an annoyance or Nuisance to other residents of the Property or surrounding areas, or destructive of wildlife or property, they must not thereafter be kept on the Property. Household pets shall at all times whenever they are outside a Lot be confined on a leash held by a responsible person. Each owner is responsible for the removal of any solid waste of his or her pet on Common Area or any Lot or Unit.

**Section 15. Grading.** No Lot or part thereof or any other portion of the Property shall be graded, and no changes in elevation of any portion of the Property.

**Section 16. Garbage Collection.** Each Owner shall contract with a garbage collection company or agency to remove garbage, trash and rubbish from such Owner's Lot. All trash and rubbish shall be in a container with a removable lid. Owners shall not leave trash out for pick-up prior to 7:00 p.m. on the night prior to pick-up and shall remove trash receptacles as soon as practicable after pick-up. No odor shall be permitted to arise there from so as to render the Properties or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants.

**Section 17. Additional Covenants and Restrictions.** Other than Developer, no owner of any part of the Property shall, without the prior written approval of Developer, impose any additional covenants and restrictions on any part of the Property.

**Section 18. Regulations.** Reasonable regulations and rules concerning the use of the Property may be promulgated, modified or amended from time to time by the Board; provided, however, that all such rules and regulations not in effect at the time of recording this Declaration and modifications or amendments thereto shall be approved by not less than fifty-one percent (51%) of the Board of Directors of the Association before the same shall become effective. The Association thereto shall furnish copies of such regulations and amendments to all Owners and residents of the Property upon request.

**Section 19. Fences.** No chain link fence shall be erected upon any portion of the Property. Any wooden fence shall be of pressure treated wood. No fence shall be erected on any Lot in the area between the building foundation line at the front of the Dwelling Unit (and the extension of such line to its intersection with the side Lot lines bounding the Lot) and the street in front of the Dwelling Unit. No fence of any kind shall be erected, altered, modified or maintained upon any other portion of the Lot until the composition, materials, design, location and height thereof has been approved in writing by the Association or the Architectural Committee (as defined in Article V hereof) as to the harmony of composition, materials, color, design and height in relation to surrounding structures and topography. The Association and Architectural Committee shall require the composition, materials, color, design and height of any fence to be consistent and harmonious with other fences on the Property, if any. All fences shall comply with the requirements of Article V, Sections 2-3 hereof. All fences shall be six (6) feet in height except the portion of any fence adjacent and parallel to a lake or pond, which shall be no more than four (4) feet in height, with the last eight (8) feet of the six foot high sides connecting to the four foot high portion being slanted. The restrictions of this paragraph shall not apply to a Lot owned by or leased to Developer and used as a real estate sales office, so long as such Lot is used for that purpose.

**Section 20. Window Coverings.** No aluminum, tinted or reflective glass or other tinted or reflective material shall be permitted on any window of any building or other improvement on the property. No objects, which are unsightly or offensive in the sole opinion of the Board or the Committee, shall be placed in the windows so as to be visible from the street or other property.

**Section 21. Exterior Appearance.** In order to preserve the architectural consistency and the uniform appearance of the improvements constructed upon the Property no alteration or changes shall be made to the exterior of any Dwelling Unit or improvements constructed upon the Property (including changes in color or painting of exterior surfaces, installation of exterior lighting or hardware of a different type of appearance from that originally constructed, installed or applied by Developer without prior written consent from the Board of the Architectural Committee as required by Article V hereof.

**Section 22. Garages.** No garage on any Lot shall be enclosed or converted for use as part of the living area of a Dwelling Unit, or used for any purpose other than that for which it was originally constructed.



**Section 23. Signs.** No sign of any character shall be displayed or placed upon any lot except "For Rent" or "For Sale" signs, which signs may refer only to the particular premises on which displayed, and shall be of materials, size, height and design specified by the Developer which follows City Codes. In no event shall any such permitted sign exceed 24 inches by 36 inches in size. The Developer may enter upon any building plot and summarily remove, without notice, any signs, which do not meet the provisions of this paragraph.

**Section 24. Commercial Signs.** Nothing contained in these Covenants and Restrictions shall prevent the Developer or any person designated by the Developer from erecting or maintaining such commercial or display signs, of whatever size and type determined by Developer, and such temporary dwellings, model houses and other structures as the Developer may deem advisable.

**Section 25. Trees.** No tree(s) more than four (4) inches in diameter at breast height may be cut down or removed at any time after occupancy without the prior written consent of the Board or Committee, and in all events, consent must first be obtained from Clay County, Florida, if required by applicable ordinance. This provision does not apply to Developer, or to pine trees, nor to any tree(s), which poses an immediate threat to health or safety by reason of but not limited to being dead, diseased or damaged.

**Section 26. Business Use.** No trade or business may be conducted in or from any Lot, except that an Owner or occupant residing in a Lot may conduct business activities within the Lot so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (b) the business activity conforms to all governmental regulations; (c) the business activity does not involve persons coming onto the residential properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Lot and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

## **ARTICLE VII - EXTERIOR MAINTENANCE AND LANDSCAPING**

**Section 1. Building Maintenance.** Each Owner shall maintain in good order and repair the exterior of the building located upon such Owner's Lot. In the event an Owner of any Lot in the Property shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board, then the Board, after approval by two-thirds (2/3) vote of the Board, shall have the right, through its agents, and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be due and payable immediately, shall be added to and become part of the assessment to which such Lot is subject, and shall be secured by the lien for assessments.

**Section 2. Easement for Building Maintenance.** The Owner of each Lot (the "Servient Lot") by

acceptance of the Owner's deed, grants to each adjacent Owner, said Owner's agents and employees the right-of-ingress and egress over the Servient Lot for the purpose of maintaining and repairing the adjacent Owner's Lot as required herein. Any such entry except in the case of an emergency shall be during reasonable hours and done so as to minimize any disturbance of the Servient Lot Owner's property use and upon completion of the maintenance, the Servient Lot shall be restored to its condition prior to entry. In addition, the Association and its authorized agents are hereby granted an easement of ingress and egress over each and every Lot for the maintenance and repair required by the Developer, and doing other work reasonable necessary for the proper maintenance and operation of the Property and the improvements thereon.

**Section 3. Entrance Sign and Maintenance.** Developer may erect perimeter fencing, berms, landscaping and signs (hereinafter referred to as the "Entrance") along such boundaries of the Property as deemed necessary by Developer. The Association shall have a five-foot (5') easement surrounding the Entrance to maintain it in good condition and shall include in the annual assessments a reasonable reserve for the repair and replacement of the Entrance. No owner shall remove, damage or alter any part of the Entrance.

**Section 4. Landscaping and Weed Control.** Each Lot, including the portion of the Lot between the street pavement and the right of way line shall be landscaped and maintained. No gravel, rocks, artificial turf or similar material shall be permitted as substitute for a grass lawn. No fences shall be permitted on the portion of the Lot between the Dwelling Unit and the adjacent public street. The composition, location and height of any fence to be constructed on any other portion of the Lot shall be subject to the approval of the Association. To the extent permitted by Clay County, the Association shall maintain the landscaping upon any median areas within the streets as shown on the Plat. The provisions of this paragraph shall not apply to a Lot owned by or leased to Developer for use as a real estate sales office, so long as the Lot and improvements thereon are used for that purpose. Each building plot, whether such plot be improved or unimproved, shall be kept free of tall grass, undergrowth, dead trees, dangerous dead tree limbs, weeds, trash and rubbish, and shall be kept at all times in a neat and attractive condition. Any owner whose lot includes any portion of a lake or pond shall be required to maintain such grass, plantings or other lateral support to prevent erosion of the embankment adjacent to the lake or pond above the water line and no plants may be allowed to extend into or grown into the lake or pond, except the Association shall maintain any portion of the embankment described in Article IV, Section 2(b). In addition, the height, grade and contour of the embankment shall not be changed without the prior consent of the Association.

In the event the owner of any building plot fails to comply, the Association or Developer shall have the right, but no obligations, to go upon such building plot and to cut and remove tall grass, undergrowth, and weeds and rubbish and any unsightly or undesirable things and objects there from, and to do any other things and perform and furnish any labor necessary or desirable in its judgment to maintain the property in a neat and attractive condition or in the manner required in this Declaration all at the expense of the Owner of such building plot, which expense shall be payable by such Owner to the Association as described in Section 1 above.

**ARTICLE VIII - RIGHTS OF MORTGAGEES**

Upon written request to the Association, identifying the name and address of a mortgage holder, lender, insurer, or guarantor of a mortgage on the Property or any Lot or the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, the Veteran's Administration or the Federal Housing Administration, or any agent of any of the aforesaid having an interest in or mortgage upon a Lot (hereinafter jointly and severally referred to as "Mortgagee"), such Mortgagee will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Property or any Lot on which there is a first mortgage held, insured or guaranteed by such Mortgagee.

(b) Any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a first mortgage held, insured or guaranteed by such Mortgagee, which remains uncured for a period of sixty (60) days.

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action, which would require the consent of a specified percentage of mortgage holders.

#### **ARTICLE IX - ANNEXATION OF PROPERTY**

**Section 1. Developer's Annexation.** For a period up to five (5) years after the date of recording this Declaration, the Developer shall have the right (without obligation to do so), from time to time and in its sole discretion without the consent of the joinder or the Association, any Owner, or Mortgagee of any Owner (unless otherwise required by the Federal Housing Administration, the Veteran's Administration, or the Federal National Mortgage Association) to annex to the Property and to include within this Declaration additional land.

**Section 2. Members Annexation.** In addition to the manner of annexation permitted by Section 1, above, the Owners may annex additional lands to the Property with the approval of each class of Owners of two-thirds (2/3) of the Lots within the Property.

**Section 3. Supplemental Declarations.** Any such additions authorized in Section 1 or 2 above may be made by filing of record of one or more Supplemental Declarations with respect to the annexed property. A Supplemental Declaration shall contain a statement that the real property that is the subject of the Supplemental Declaration constitutes additional property which is to become a part of the Property subject to the Declaration. Such Supplemental Declaration shall become effective upon being recorded in the public records of Clay County, Florida.

**ARTICLE X - RECONSTRUCTION OR REPAIR AFTER CASUALTY**

**Section 1. Damage to Common Area.** In the event that any portion of the Common Area, if any, is damaged or destroyed by casualty, it shall be repaired or restored by the Association to substantially its condition prior to the damage or destruction. Repair or reconstruction of the Common Area shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed. All insurance proceeds shall be applied to the restoration and repair. If the insurance proceeds are insufficient, the deficit shall be assessed against all Owners as a special assessment. If there is a surplus of insurance proceeds, it shall become the property of the Association.

**ARTICLE XI - ENCROACHMENTS**

Each Lot shall be subject to an easement for encroachment created by construction, settling and overhangs, as designed or constructed by Developer or its successors or assigns. A valid easement for the described encroachments and for the maintenance of it shall and does exist for so long as it stands. In the event that a structure on a Lot is partially or totally destroyed, and then rebuilt, the Owners of the Lot so affected agree that minor encroachments of parts of the adjacent rebuild structures shall be permitted and a valid easement for any such encroachment and the maintenance thereof shall exist.

**ARTICLE VII - GENERAL PROVISIONS**

**Section 1. Enforcement.** The Association, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Any Owner found in violation of any of the provisions of this Declaration shall be obligated to pay attorney's fees to the successful Plaintiff, together with all court costs incurred therein in all actions seeking to prevent, correct or enjoin such violations or in damage suits thereon.

The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the surface water or stormwater management system.

**Section 2. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

**Section 3. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the votes of each class, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Owners. Any amendment must be recorded in the public records of Clay County, Florida.

Any amendment to the Covenants and Restrictions which alter the surface water or stormwater management system, beyond maintenance in its original condition, including water management portions of the common areas, must have the prior approval of the St. Johns River Water Management District.

**Section 4. FHA/VA Approval.** So long as any of the Lots are encumbered by mortgages owned, held, guaranteed or insured by the Federal Housing Administration or the Veterans Administration, and so long as there is Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, mergers and consolidations, mortgaging of Common Area, if any, dedication of Common Area, dissolution and amendment of this Declaration.

**Section 5. Special Amendment.** As long as there is a Class B membership, or so long as Developer is entitled to annex without the consent of any Owner, the Association or any Mortgagee, hereby reserves and is granted the right and power to make and to record in the public records of Clay County, Florida, Special Amendments to this Declaration at any time and from time to time which amend this Declaration: (1) to comply with the requirements of the Federal National Mortgage Association, the Veterans Administration or the Federal Housing Administration, or any other governmental or quasi-governmental agency or entity which perform (or may in future perform) functions similar to those currently performed by such entities; or (2) to induce any such agency or entity to make, purchase, sell, insure or guarantee first mortgages on any of the Lots within the Property; or (3) to cure any ambiguity or inconsistency. Provided however, that no such Special Amendment shall discriminate against any Lot not owned by Developer, unless such other Owners and their mortgagees so affected shall give their prior written consent thereto; and no such Special Amendment shall materially adversely affect or change any Lot nor the share of the expense of the Association appurtenant thereto, unless the Owners of the Lots so affected and all record owners of mortgages upon such Lots shall join in execution of the Special Amendment.

IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto set its hand and seal this 20th Day of, November 2003.

Signed, sealed and delivered  
In the presence of the  
Following witnesses:

[Signature]  
(Signed Name)

Richard A. Termon  
(Printed Name)

[Signature]  
(Signed Name)

JEANNIE COOPER  
(Printed Name)

SC Development Enterprises, LLC,  
a Florida limited liability company

By: [Signature]  
a Florida limited liability company

By: It's Managing Member  
Printed Name: Christopher M. Cioffi

(Corporate Seal)

STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me on this 20 day of November, 2003, by CHRISTOPHER M. CIOFFI, the Managing Member of SC Development Enterprises, LLC, a Florida limited liability company, on behalf of the company. He is personally known to me or has produced his driver's license as identification, and did/did not take an oath.



JEANNIE COOPER (Print)  
Notary Public  
State of Florida

CONSENT AND JOINDER

Branch Banking & Trust Company, a North Carolina corporation ("Mortgagee") is the holder of that certain mortgage dated September 15, 2003, recorded in Official Records Volume 2281, Page 144, of the public records of Clay County, Florida (the "Mortgage"). Mortgagee hereby consents to the execution delivery and recording of the Declaration of Covenants, Conditions and Restrictions for Silver Creek, to which this Consent and Joinder is attached and agrees that Mortgagee's interest under the Mortgage shall be subject and subordinate to the terms and conditions of the Declaration of Covenants, Conditions and Restrictions; provided, however, nothing contained herein shall subordinate or release Mortgagee's interest under the Mortgage except as set forth herein.

IN WITNESS WHEREOF, the Mortgagee has executed this Consent and Joinder this 20th day of November, 2003.

Signed, sealed and delivered  
in the presence of:

Jeanette Cooper  
Print Name:

\_\_\_\_\_  
Print Name:

BRANCH BANKING & TRUST  
COMPANY, a North Carolina corporation

By: [Signature]  
Print Name: JAY RASMUSSEN  
Its: VICE PRESIDENT

OR BOOK 2265 PAGE 0273

EXHIBIT "A"

LEGAL DESCRIPTION

A PORTION OF SECTIONS 22 AND 27, TOWNSHIP 5 SOUTH, RANGE 25 EAST, CLAY COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF BEGINNING COMMENCE AT THE NORTHEAST CORNER OF SOUTHBANK PHASE I, AS RECORDED IN PLAT BOOK 32, PAGES 35 AND 36 OF THE PUBLIC RECORDS OF SAID COUNTY AND RUN SOUTH 89 DEGREES 40 MINUTES 51 SECONDS EAST, ALONG THE SOUTHERLY RIGHT OF WAY LINE OF COUNTY ROAD NO. C-739-B (FORMERLY STATE ROAD NO. S-739-B), ALSO KNOWN AS SANDRIDGE ROAD, AN 80 FOOT RIGHT OF WAY AS PER STATE ROAD DEPARTMENT RIGHT OF WAY MAP SECTION NO. 71523-2601, A DISTANCE OF 2,619.39 FEET; THENCE SOUTH 25 DEGREES 59 MINUTES 27 SECONDS WEST, A DISTANCE OF 3,026.59 FEET; THENCE SOUTH 36 DEGREES 21 MINUTES 14 SECONDS WEST, A DISTANCE OF 1,331.32 FEET; THENCE SOUTH 52 DEGREES 37 MINUTES 10 SECONDS WEST, A DISTANCE OF 1,643.63 FEET; THENCE NORTH 87 DEGREES 55 MINUTES 48 SECONDS WEST, A DISTANCE OF 367.75 FEET TO A POINT ON THE WESTERLY LINE OF SAID SECTION 27, TOWNSHIP 5 SOUTH, RANGE 25 EAST; THENCE NORTH 02 DEGREES 03 MINUTES 14 SECONDS EAST, ALONG LAST SAID WESTERLY LINE, TO AND ALONG THE EASTERLY LINE OF ASBURY DOWNS UNIT FIVE, AS RECORDED IN PLAT BOOK 33, PAGES 16 THROUGH 20, PUBLIC RECORDS OF SAID COUNTY, AND ALONG THE EASTERLY LINE OF RUSSELL OAKS, AS RECORDED IN PLAT BOOK 22, PAGES 68 THROUGH 71, SAID PUBLIC RECORDS, A DISTANCE OF 3,056.27 FEET TO THE SOUTHWESTERLY CORNER OF PROPOSED SOUTHBANK PHASE II; THENCE THE FOLLOWING 8 COURSES AND DISTANCES ALONG THE SOUTH AND EAST BOUNDARIES OF SAID PROPOSED SOUTHBANK PHASE II; FIRST COURSE: SOUTH 89 DEGREES 42 MINUTES 32 SECONDS EAST, 310.17 FEET; SECOND COURSE: NORTH 00 DEGREES 29 MINUTES 40 SECONDS EAST, 60.00 FEET; THIRD COURSE: SOUTH 89 DEGREES 42 MINUTES 32 SECONDS EAST, 278.51 FEET; FOURTH COURSE: SOUTH 00 DEGREES 17 MINUTES 28 SECONDS WEST, 60.00 FEET; FIFTH COURSE: SOUTH 89 DEGREES 42 MINUTES 32 SECONDS EAST, 300.00 FEET; SIXTH COURSE: NORTH 00 DEGREES 17 MINUTES 28 SECONDS EAST, 373.60 FEET; SEVENTH COURSE: NORTH 45 DEGREES 17 MINUTES 28 SECONDS EAST, 181.65 FEET; EIGHTH COURSE: NORTH 00 DEGREES 55 MINUTES 54 SECONDS EAST, 137.96 FEET TO A POINT ON THE SOUTH LINE OF PREVIOUSLY MENTIONED SOUTHBANK, PHASE I; THENCE SOUTH 89 DEGREES 42 MINUTES 32 SECONDS EAST, ALONG THE SOUTHERLY LINE OF SAID SOUTHBANK PHASE I, A DISTANCE OF 19.89 FEET TO THE SOUTHEASTERLY CORNER THEREOF; THENCE NORTH 00 DEGREES 56 MINUTES 40 SECONDS EAST, ALONG THE EASTERLY LINE OF SAID SOUTHBANK PHASE I, A DISTANCE OF 1,103.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED LANDS CONTAIN 222.23 ACRES, MORE OR LESS.



Nov. 5. 2003 10:41AM  
(((R0300310929 3)))

No. 7187 P. 2/7  
FILED

03 NOV -5 AM 8:10

SEC. STATE  
TALLAHASSEE, FLORIDA

ARTICLES OF INCORPORATION

OF

SILVER CREEK OF CLAY COUNTY  
HOMEOWNERS ASSOCIATION, INC.  
A CORPORATION NOT-FOR-PROFIT

We, the undersigned, being desirous of forming a corporation not for profit, do hereby associate ourselves into a corporation for the purposes and with the powers herein specified and do hereby agree to the following Articles of Incorporation:

ARTICLE I. NAME

The name of this corporation shall be:

SILVER CREEK OF CLAY COUNTY HOMEOWNERS ASSOCIATION, INC.  
(hereinafter referred to as the "Association").

ARTICLE II. PURPOSE

The purposes and object of the Association shall be to work for the preservation, improvement and beautification of SILVER CREEK, a residential development, (hereinafter "the Development") to be established upon that certain real property in CLAY County, Florida, as described in that certain Declaration of Covenants, Conditions and Restrictions for SILVER CREEK, which shall be recorded in the public records, CLAY County, Florida.

The Association does not contemplate pecuniary gain or profit to the members thereof and shall undertake and perform all acts and duties incident to the management, preservation and control of the common areas of the Development in accordance with the terms, provisions, and conditions of these Articles of Incorporation, the By-Laws of the Association and the Declaration.

ARTICLE III. POWERS

The Association shall have the following powers:

A. All of the powers and privileges granted to corporations not for profit under the laws of the State of Florida and the Declaration as the same may be amended from

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time to time as therein provided, said Declaration being incorporated herein as if set forth in length.

B. All of the powers reasonably necessary to implement and effectuate the purposes of the Association.

ARTICLE IV. QUALIFICATION OF MEMBERS

The qualifications of members, manner of their admission to and termination of membership shall be as follows:

A. The owners of all Lots in the Development are eligible to be members of the Association, and no other persons or entities shall be entitled to membership.

B. A person can become a Member by the acquisition of a vested present interest in the fee title to a Lot in the Development. The membership of any person or entity shall be automatically terminated upon his being divested of his title or interest in such Lot. Further, membership is dependent upon the owner paying the dues as enacted by the Association.

C. Except as an appurtenance to his Lot, no Member can assign, hypothecate or transfer in any manner, his membership in the Association or his interest in the funds and assets of the Association. The funds and assets of the Association shall belong solely to the Association subject to the limitation that the same be expended, held or used for the benefit of the membership and for the purposes authorized herein, in the Declaration, and the By-Laws hereof.

ARTICLE V. VOTING

On all matters upon which the membership shall be entitled to vote, there shall be only one vote for each lot in the Development. Such vote may be exercised or cast by the owner or owners in such manner as may be provided in the By-Laws of this Association. Any item up for consideration and vote shall require for approval the vote of 2/3 of the total membership.

ARTICLE VI. TERM OF EXISTENCE

Existence of this Association shall commence with the filing of these Articles with the Secretary of State, Tallahassee, Florida. The Association shall have perpetual existence.

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ARTICLE VII. OFFICE

The principal office of the Association shall be 1750 W. Broadway Street, Suite 118, Oviedo, Florida 32765, or such other place as the Board of Directors may designate. The address of the registered office and the name of the Initial Registered Agent are: Richard Jerman, 1750 W. Broadway Street, Suite 118, Oviedo, Florida 32765.

ARTICLE VIII. BOARD OF DIRECTORS

A. The business affairs of this Association shall be managed by the Board of Directors. The number of members of the Board of Directors shall be three including the President of the Association.

B. Subject to the Declaration, the Board of Directors shall be elected by the Members of the Association from among the membership at the annual membership meeting.

The names and residence addresses of the persons who are to serve as the initial Board of Directors until their successors are chosen, are as follows:

<u>Director</u>	<u>Address</u>
Richard Jerman	1750 W. Broadway Street Suite 118 Oviedo, Florida 32765
Kevin M. Davis	1750 W. Broadway Street Suite 118 Oviedo, Florida 32765
Karen Chappell	2931 Plummer Cove Road Jacksonville, Florida 32223

ARTICLE IX. OFFICERS

A. The officers of the Association shall be a President, Secretary and Treasurer who shall perform the duties of such offices customarily performed by like officers of corporations in the State of Florida subject to the directors of the Board of Directors.

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B. The persons who are to serve as officers of the Association until their successors are chosen are:

<u>Officer</u>	<u>Name</u>	<u>Address</u>
President	Richard Jerman	1750 W. Broadway St., Ste. 118 Oviedo, Florida 32765
Secretary	Kevin M. Davis	1750 W. Broadway St., Ste. 118 Oviedo, Florida 32765
Treasurer	Karen Chappell	2931 Plummer Cove Road Jacksonville, Florida 32223

C. The officers shall be elected by the members of the Association at their annual meeting. Any vacancies in any office shall be filled by the Board of Directors at any meeting duly held. The annual meeting shall be held in January. Other meetings of the Association shall be held at least quarterly. Any one (1) member can call a meeting by notifying the President.

ARTICLE X. BY-LAWS

A. The members shall adopt by a majority vote the original By-Laws of the Association.

B. The By-Laws may be amended in accordance with the procedures set forth in the By-Laws.

ARTICLE XI. AMENDMENT OF ARTICLES

A. These Articles of Incorporation may be amended as follows:

1. Amendments shall be proposed by a majority of the Board of Directors.
2. The President, or acting Chief Executive Officer of the Association in the absence of the President, shall thereupon call a special meeting of the Members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from the date on which the Board of Directors approve the amendment proposal. Each Member shall be given written notice of such meeting stating the time and place of the meeting and reciting the proposed amendment or amendments in reasonably detailed

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form, which notice shall be mailed or presented personally to each Member not less than ten (10) days nor more than thirty (30) days before the date set for such meeting. Such notice shall be deemed properly given when deposited in the United States mail, addressed to the Member at his post office address as it appears on the records of the Association. At such meeting, the amendment or amendments proposed must be approved by an affirmative vote of at least a majority of the members. If so approved, a certified copy of the said amendment or amendments shall be filed in the Office of the Secretary of State of the State of Florida and recorded in the public records of Clay County, Florida.

ARTICLE XII. INDEMNITY

Every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or officer of the Association, whether or not he is a Director or officer at the time such expenses are incurred, except in such cases where the Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided, that in the event any claim for reimbursement or indemnification hereunder is based upon a settlement by the Director or officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

ARTICLE XIII. NON-PROFIT STATUS

No part of the income of this corporation shall be distributed to the Members except upon dissolution or final liquidation and as permitted by the court having jurisdiction thereof.

ARTICLE XV. SUBSCRIBER


The name and address of the subscriber to these Articles is:

Richard Jerman                      1750 W. Broadway Street  
Suite 118  
Oviedo, Florida 32765

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Nov. 5. 2003 10:43AM  
(((B0300310929 3)))

IN WITNESS WHEREOF, we, the undersigned subscribing incorporators have hereunto set our hands and seal this 3<sup>rd</sup> day of October, 2003, for the purpose of forming this corporation not for profit under the laws of the State of Florida.

  
\_\_\_\_\_  
RICHARD JERMAN

**CERTIFICATE NAMING AGENT UPON WHOM DUE PROCESS  
MAY BE SERVED**

In pursuance of Chapter 48.091, Florida Statutes, the following is submitted:

That SILVER CREEK OF CLAY COUNTY HOMEOWNERS ASSOCIATION, INC., a corporation duly organized and existing under the laws of the State of Florida, with its principal office, as indicated in the articles of incorporation at City of Oviedo, County of Clay, State of Florida, has named Richard Jerman, located at 1750 West Broadway Street, Suite 118, Oviedo, Florida 32765, as its agent to accept service of process within this state.

Having been named to accept service of process for above stated corporation, at the place designated in this certificate, I hereby accept to act in this capacity, and agree to comply with the provisions of said Florida Statute relative to keeping open said office.

REGISTERED AGENT

  
\_\_\_\_\_  
RICHARD JERMAN

FILED  
03 NOV -5 AM 8:10  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

STATE OF FLORIDA  
COUNTY OF ~~DUNAL~~ Seminole

Sworn to and subscribed before me this 3<sup>rd</sup> day of October, 2003, by RICHARD JERMAN who is personally known to me or has produced his driver's license as identification.

  
\_\_\_\_\_  
Notary Public, State of Florida



Linda L. Mathews  
My Commission GC284532  
Expires January 16, 2005

EXHIBIT "C"

BYLAWS  
OF  
SILVER CREEK OF CLAY COUNTY HOMEOWNERS ASSOCIATION, INC.

A corporation not for profit  
under the laws of the State of Florida

ARTICLE I

IDENTITY

These are the Bylaws of the **SILVER CREEK OF CLAY COUNTY HOMEOWNERS ASSOCIATION, INC.**, hereinafter called the "Association", a corporation not for profit under the laws of the State of Florida, the Articles of Incorporation of which were filed in the office of the Secretary of State on November 5, 2003.

The Association has been organized for the purpose of performing the functions as are outlined in the covenants, conditions and restrictions as may be recorded, for all phases of Silver Creek, a subdivision located in Clay County, Florida, including any amendments thereto (the "covenants"), and specifically for the purpose of the continual maintenance of the roads in the subdivision.

The Members of the Association shall be all lot owners, as more particularly defined in the covenants.

The office of the Association shall be at 1750 West Broadway Street, Suite 118, Oviedo, Florida 32765, but may be changed from time to time, and meetings of Members and Directors may be held at such places within the State of Florida as may be designated by the Board of Directors.

The fiscal year of the Association shall be the calendar year.

The seal of the Association shall bear the name of the corporation, the word "Florida", the words "Corporation not for profit", and the year of incorporation. The seal shall be in the following form:

ARTICLE II

MEMBERS MEETINGS

A. Annual meeting. The annual members meeting shall be held at such location as shall be designated in the Notice of Meeting at 7:00 p.m. on the last day of April of each year, beginning in 2004, for the purpose of electing directors and transacting business authorized to be transacted by the members; provided, however, that if that day is a legal holiday, the meeting shall be held at the same hour on the next day that is not a legal holiday.

B. **Special Meetings.** Special meetings of the members shall be held whenever called by the President or Vice President or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from members entitled to cast one-third (1/3) of the votes of the entire membership. At a special meeting of the Members, the Association may only conduct that business and address those matters that were stated in the notice of the special meeting to be the purpose thereof.

C. **Notices.** Notice of all members' meeting stating the time and place and the object for which the meeting is called shall be given by the President or Vice President or Secretary unless waived in writing by all of the members. Such notice shall be in writing to each member at his address as it appears on the books of the Association and shall be mailed within the time frame as provided in the covenants. Proof of such mailing shall be given by the affidavit of the person giving the notice.

D. **Quorum.** A quorum at members' meetings shall be as provided in the covenants.

E. **Voting Rights.** The voting rights of the members shall be as specified in the covenants.

F. **Proxies.** Votes may be cast in person or by proxy. A proxy may be made by any person entitled to vote and shall be valid only for the particular meeting designated in the proxy and must be filed with the Secretary before the appointed time of the meeting or any adjournment of the meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

G. **Adjourned meetings** may be rescheduled as provided in the covenants.

H. **Order of Business.** The order of business at annual members' meetings, and as far as practical at other members' meetings, shall be:

1. Election of chairman of the meeting.
2. Calling of the roll and certifying of proxies.
3. Proof of notice of meeting or waiver of notice.
4. Reading and disposal of any unapproved minutes.
5. Reports of officers.
6. Reports of committees.
7. Election of inspectors of elections.
8. Election of directors.
9. Unfinished business.
10. New business.
11. Adjournment.



I. **Written Consent and Joinder.** In the event that any action is authorized to be taken by the Members at a meeting, it shall be permissible to approve such action by a written consent and joinder by the proportion of Members required to approve such action; provided, however, that notice of the Association's intent to seek written consent and joinder shall be sent to all Members in accordance with the notice provision herein.

### **ARTICLE III**

#### **DIRECTORS**

A. **Governing Body.** The affairs of the Association shall be governed by a Board of Directors. Except as provided in paragraph B of this Article, the Directors must be owners and reside in Silver Creek; provided, however, no person and his or her spouse may serve on the Board at the same time.

B. **Directors Appointed.** The names of the initial Directors are set forth in the Articles of Incorporation of the Association.

C. **Number.** The Board shall consist of three (3) members.

D. **Term.** The term of office of Directors shall be the calendar year following his election and subsequently until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided.

E. **Removal.** Any Director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Directors and shall serve until the next annual meeting of the members.

F. **Compensation.** No Director shall receive compensation for any service he may render to the Association. However, a Director may be reimbursed for his actual expenses incurred in the performance of his duties.

G. **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 Nominating Committee shall consist of a Chairman, who shall be a Director, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than thirty (30) days prior to each annual meeting of the members. The committee shall nominate one (1) person for each Director then serving. Nominations for additional directorships created at the meeting shall be made from the floor and other nominations may be made from the floor.

H. **Election.** Election to the Board of Directors shall be by secret written ballot. At such election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The

person receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.

#### ARTICLE IV

##### MEETINGS OF DIRECTORS

A. Organization Meeting. The first meeting of the members of a newly elected Board of Directors shall be held within ten (10) days of their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary.

B. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors.

C. Special Meetings. Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of one-third (1/3) of the Directors. Not less than three (3) days notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

D. Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

E. Quorum. A quorum at a Director's meeting shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Articles of Incorporation or the Covenants or these By-laws.

F. Adjourned Meetings. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that might have been transacted at the meeting as originally called may be transacted without further notice.

G. Action Taken Without a Meeting. The Board of Directors may take any action without a meeting which it could take at a meeting by obtaining the written consent and joinder of all Directors. Any action so taken shall have the same effect as though taken at a meeting of the Directors.

H. Joinder in Meeting by Approval of Minutes. The joinder of a Director in the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the presence of such Director for the purpose of determining a quorum.

I. **Presiding Officer.** The presiding officer at a Directors' meeting shall be the Chairman of the Board if such an officer has been elected; and, if none, the President shall preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

## **ARTICLE V**

### **POWER AND DUTIES OF BOARD OF DIRECTORS**

Subject to the provisions of the Covenants, the Board of Directors shall have the following powers and duties:

A. Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions in the Covenants or Articles of Incorporation;

B. 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;

C. Employ a manager, an independent contractor, or such other employees as the Board deems necessary, and to prescribe the duties and compensation of any such employee, and to provide for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;

D. Prepare and adopt an annual budget in which there shall be established the contribution of each Owner to the common expenses, subject to the provisions in the covenants;

E. Make assessments to defray the common expenses, establish the means and methods of collecting such assessments, and establish the period of the installment payments of the annual assessment, send written notice of each assessment to every owner subject thereto, and to file and foreclose liens against any property for which assessments are not paid, all as provided in the Covenants;

F. Provide for the operation, care, upkeep and maintenance of all areas which are the maintenance responsibility of the Association, as set forth in the covenants;

G. Collect the assessments, depositing the proceeds thereof in a bank depository which it shall approve and using the proceeds to administer the Association;

H. Open bank accounts on behalf of the Association and designate the signatories required;

I. Enforce by legal means the provisions of the Covenants and these Bylaws, and bring any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

J. Pay the cost of all services rendered to the Association or its members which are not directly chargeable to Owners;

K. Keep books with detailed accounts of the receipts and expenditures affecting the Association and its administration, and specify the maintenance and repair expenses and any other expenses incurred, which books and records shall be open for inspection by any of the members at reasonable times and upon reasonable notice;

L. Contract with any person or entity for the performance of various duties and functions;

M. Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

N. Cause any or all officers or employees having fiscal responsibilities to be bonded, as the Board may deem appropriate;

O. To present to the members at the annual meeting, 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, a statement of all acts and corporate affairs;

P. To oversee the common areas, enforce rules and regulations, and such other duties relating to the common areas as may be necessary from time to time.

## ARTICLE VI

### OFFICERS AND THEIR DUTIES

A. Enumeration of Offices. The officers of this Association shall be a President, a Vice President, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create. The President and Treasurer shall be elected from among the members of the Board of Directors.

B. 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.

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

D. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period,

have such authority, and perform such duties as the Board may, from time to time, determine.

E. **Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

F. **Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the vacancy.

G. **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 paragraph D of this Article.

H. **Duties.** The duties of the officers are as follows:

**President**

The President shall be the chief executive officer of the Association. He shall have all of the powers and duties usually vested in the office of president of an association, including but not limited to the power to appoint committees from among the members from time to time as he, in his discretion, may determine appropriate to assist in the conduct of the affairs of the Association. He shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

**Vice President**

The Vice President shall act in the place and stead of the President in the event of the President's absence or inability to act, shall assist the President generally, and shall exercise and discharge such other duties as may be required of him by the Board.

**Secretary**

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

Treasurer

The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall co-sign all checks and promissory notes of the Association; keep proper books of account; upon request of the Board of Directors, cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

In addition, the Treasurer shall, when requested on behalf of any lot owner, furnish a certificate setting forth whether or not the assessments on a specified lot have been paid, which certificate shall be binding upon the Association as of the date of its issuance, as provided in the Covenants.

ARTICLE VII

COMMITTEES

The Association shall appoint an Architectural Control Committee as provided in the Covenants and 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.

The foregoing was adopted as the By-laws of Silver Creek of Clay County Homeowners Association, Inc. a corporation not for profit under the laws of the State of Florida.

(e) This instrument prepared by and  
after recording return to:

Grant T. Downing, Esquire  
Godbold, Downing, Sheahan & Bill, P.A.  
222 West Comstock Avenue, Suite 101  
Winter Park, Florida 32789

-----[SPACE ABOVE THIS LINE FOR RECORDING DATA]-----

**FIRST AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR SILVER CREEK**

This First Amendment to Declaration of Covenants, Conditions and Restrictions for Silver Creek (the "First Amendment") is made this 31<sup>st</sup> day of August, 2006, by SC DEVELOPMENT ENTERPRISES, LLC, a Florida limited liability company ("Developer").

**WITNESSETH:**

WHEREAS, that certain Declaration of Covenants, Conditions and Restrictions for Silver Creek was recorded on February 18, 2004, in Official Records Book 2332, Page 250, of the Public Records of Clay County, Florida (the "Declaration"); and

WHEREAS, Developer reserved under Article VII, Section 5 the right and authority in its sole discretion to amend the Declaration and desires at this time to amend Article II, Sections 6(a) and 6(b) regarding the Surface Water or Stormwater Management System.

NOW, THEREFORE, in consideration of the premises and other good and valuable considerations paid, Developer hereby amends the Declaration in accordance with provisions set forth hereafter.

1. ARTICLE II, SECTION 6(a). Article II, Section 6(a) of the Declaration is deleted in its entirety and replaced with the following:

"6(a). The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns

River Water Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved by the St. Johns River Water Management District."

2. ARTICLE II, SECTION 6(b). Article II, Section 6(b) shall be deleted in its entirety.

3. ORIGINAL DECLARATION. Except as specifically amended herein, all other terms and provisions of the original Declaration shall remain applicable, unchanged and in full force and effect.

**[SIGNATURE PAGE TO FOLLOW]**



IN WITNESS WHEREOF, this First Amendment to Declaration has been executed on the day and year first above written.

Signed, sealed and delivered in the presence of:

Luann Ruse  
Signature

Print Name: LUANN RUSE

Colleen Hughes  
Signature

Print Name: COLLEEN HUGHES

SC DEVELOPMENT ENTERPRISES, LLC, a Florida limited liability company

By: [Signature]  
Print Name: CHRIS M. CIOFFI  
As: MEMBER

STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of AUG, 2006, by CHRIS CIOFFI, as MANAGING MEMBER of SC DEVELOPMENT ENTERPRISES, LLC, a Florida limited liability company. He  is personally known to me or  has produced \_\_\_\_\_ as identification.

IMPRINT NOTARY RUBBER STAMP SEAL BELOW



**Luann Ruse**  
Commission #DD143001  
Expires: Sep 26, 2006  
Bonded Thru  
Atlantic Bonding Co., Inc.

Luann Ruse  
Signature of Person Taking Acknowledgment  
Notary Public

JOINDER

EQUITY INVESTMENTS, LLC

EQUITY INVESTMENTS, LLC, a Florida limited liability company, does hereby join in the First Amendment to Declaration of Covenants, Conditions and Restrictions for Silver Creek (the "First Amendment"), to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 5<sup>th</sup> day of SEPTEMBER, 2006.

WITNESSES:

EQUITY INVESTMENTS, LLC, a Florida limited liability company

D. Marquez

Print Name: Diana Marquez

David Shapiro  
David Shapiro, Managing Member

Carmen Jusino

Print Name: Carmen Jusino

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of SEPTEMBER, 2006 by David Shapiro, as Managing Member of EQUITY INVESTMENTS, LLC, a Florida limited liability company, who is personally known to me or has produced \_\_\_\_\_ as identification.

My commission expires:

Alicia Ash  
NOTARY PUBLIC, State of Florida at Large

Print Name: Alicia Ash

