

VOL 663210537
OFFICIAL RECORDSDECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR MARIETTA FORREST

THIS DECLARATION, made the 19th day of December, 1988, by THREE CREEKS, INC. a Florida corporation, whose mailing address is 118 West Adams Street, Suite 3A, Jacksonville, Florida 32202, hereinafter called "Developer".

W I T N E S S E T H:

WHEREAS, Developer intends to develop a planned development community generally known as Marietta Forrest upon property more particularly described as all of the property in MARIETTA FORREST, UNIT 1, less and except Lots 45, 46, 47, 48, 49, 50 and 51 in Block 2, according to the plat thereof, recorded in Plat Book 44, page 53, 53A and 53B, current public records of Duval County, Florida (said property hereinafter referred to as "Property"); and

WHEREAS, Developer has subdivided all or a portion of the same into single family residential lots, and

WHEREAS, Developer desires to provide for the preservation of the values and amenities of the Property and for the care and maintenance of certain Shared Facilities (hereinafter defined) and to this end, Developer has created or will create Marietta Forrest Community Association, Inc., (hereinafter "Community Association") whose membership may include the Owners of all or any part of Property or lands in the general geographical vicinity thereof; and

WHEREAS, Developer now desires to add the owners of the Property as members of the "Community Association"; and

WHEREAS, Developer also desires to subject the Property to certain covenants, and restrictions as hereinafter described; and

WHEREAS, Developer desires to reserve the right to subject all or any portion of the adjoining property described on Exhibit A attached hereto, and any lands in the general geographical vicinity thereof (hereinafter collectively referred to as the "Additional Property"), to the covenants, conditions and restrictions contained herein by annexation of such additional property hereto in accordance with the terms hereinafter set forth.

NOW, THEREFORE, Developer declares that the Property and such other properties as are or may be subsequently encompassed by this Declaration as hereinafter set forth, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions and restrictions contained herein (sometimes referred to as "covenants and restrictions"), all of which are for the purpose of protecting the value and desirability of the Property and which shall run with the title to the Property, shall be binding upon all parties having any right, title or interest in the Property or any part thereof and their respective heirs, successors and assigns and which shall inure to the benefit of each Owner of a Lot within the Property.

ARTICLE I. DEFINITIONS

Section 1. Annexation. "Annexation" shall mean and refer to the addition of all or any part of the Additional Property, at the option of Developer, to the development community created herein and the subjection of such Additional Property to the terms and conditions set forth in this Declaration or such other, further or different terms and conditions as Developer may elect. Annexation shall be accomplished by the recording by Developer of an amendment to this Declaration in the public records of Duval County, Florida, describing the property to be annexed along with a plat or legal description of such property.

Prepared By and Return To
Douglas A. Ward
Rogers, Yowers, Bailey, Jones & Gay
Attorneys at Law
2200 Gulf Life Drive
Jacksonville, Florida 32207

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Section 2. Assessment. The term "Assessment" as used herein shall mean and refer to the fractional share of the total Community Association and/or pertinent homeowners association expenses allocable to a particular Lot and its Owner.

Section 3. Assessment Period. "Assessment Period" shall be the same period as a calendar year, from January 1 to December 31 of any given year.

Section 4. Community Association. "Community Association" shall mean and refer to Marietta Forrest Community Association, Inc., a corporation not-for-profit, organized or to be organized pursuant to Chapter 617, Florida Statutes, and its successors and assigns.

Section 5. Community Association Articles. "Community Association Articles" shall mean and refer to the Articles of Incorporation of the Association.

Section 6. Community Association Directors. "Community Association Directors" shall mean and refer to the Association's Board of Directors.

Section 7. Community Association Expenses. "Community Association Expenses" shall mean and refer to the expenses and charges described in this Declaration incurred or to be incurred by or collected or to be collected for the Community Association by the Community Association and assessed or to be assessed against the Lots and the Owners thereof.

Section 8. Developer. "Developer" shall mean and refer to Three Creeks, Inc. or such other entity owning all or a portion of the Property which has been specifically assigned the rights of Developer hereunder and any assignee thereof which has had the rights of Developer similarly assigned to it.

Section 9. Lot. "Lot" shall mean and refer to any plot of land designated as a lot upon the recorded subdivision plat of the Property or Additional Property. Additionally "Lot" shall include unplatted or platted areas of the Additional Property which are designated for commercial use and shall be owned by Class B Members.

Section 10. Member. "Member" shall mean and refer to all those Owners who are members of the Community Association as provided in Section 1 of Article II hereof.

Section 11. Owner. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property either by virtue of this Declaration or by virtue of amendment hereto to annex additional property in accordance with the provisions set forth herein, including contract sellers, but excluding those having such interests merely as security for the performance of an obligation. The term "Owner" shall not mean or refer to any mortgagee or grantee or beneficiary under a mortgage or security deed unless and until such mortgagee, grantee or beneficiary has acquired title pursuant to foreclosure or any proceeding or conveyance in lieu of foreclosure.

Section 12. Property. "Property" shall mean and refer to that certain real property more particularly described on Exhibit A attached hereto and so much of the Additional Property as is annexed by Amendment to this Declaration.

Section 13. Maintained Property. "Maintained Property" shall mean and refer to the environmentally protected areas, drainage outfalls and retention ponds (for drainage retention) as shown on the plans and the median islands located at the entrances to the Property. The definition of Maintained Property shall also include such additional property, intended for the common use and enjoyment of the Members, as may from time to time be designated as such by Amendment to this Declaration.

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OFFICIAL RECORDSARTICLE II. MEMBERSHIP AND VOTING RIGHTS
IN THE COMMUNITY ASSOCIATION

Section 1. Membership. Every Owner of a Lot in the Property developed and annexed as herein set forth shall be a Member of the Community Association. Such membership shall be coincident with the ownership of the Lot, and shall not be separately transferable. Membership shall cease upon the transfer or termination of ownership. Persons or entities who or which own a Lot merely as security for the performance of an obligation shall not be Members of the Community Association; rather, the beneficial owner in such cases shall be the Member.

Section 2. Voting Rights. The Community Association shall have three classes of voting membership:

Class A - Class A Members shall be all Owners who have taken title to one or more Lots from the Developer, or from a successor in title to the Developer. Class A Members shall be entitled to one vote for each Lot in which they hold an interest required for membership in Section 1 hereof. When more than one person holds such interest in a Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine but in no event shall more than one vote be cast with respect to any Lot.

Class B. Class B Members shall be all owners of commercial property in the immediate vicinity of the Property which may be annexed to the Property by the Developer. Each Class B Member shall have a number of votes determined by multiplying the total number of Class A votes outstanding by a number equal to twice the total number of commercial acres annexed and dividing that result by 100 (rounding the final number of votes to the nearest whole number). Class B Members shall be entitled to vote only on matters relating to that portion of the Maintained Property which is shown on the plats as environmentally protected drainage outfall structures and easements, and the drainage retention areas. Class B Members shall not be entitled to vote nor have any obligation for the maintenance of other Maintained Property. In the event there is more than one Class B Member, the votes shall be exercised as they determine.

Class C - The Class C Member shall be Developer, which shall be entitled to a number of votes equal to the sum of all of the Class A and Class B votes, as they exist from time to time, plus one. Class C membership shall terminate when Developer no longer owns any portion of the Property.

Section 3. Membership and Voting Procedure. The Community Association Articles and Bylaws shall more specifically define and describe the procedural requirements for Community Association Membership meetings and voting procedures, but shall not substantially alter or amend any of the rights or obligations of the Developer as set forth herein.

ARTICLE III. COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. 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 Community 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, costs, and reasonable attorney's fees, shall be a charge on the Member's lot from the date of recording of a Claim of Lien as hereinafter set forth. 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 property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them, however, the delinquent assessment shall remain a lien against the property until paid. The

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Developer shall not be subject to assessments for any Lot or any acreage it owns and that may become subject to this Declaration. The Developer may assign this exemption right to any entity which obtains a portion of the Property for development purposes. Such an assignment shall have no effect on the Developer's exemption hereunder. Class B Members shall only be assessed as follows:

a) for expenses relating to the environmentally protected areas, drainage outfall easements and structures and the drainage retention areas, in the same proportion as the Class B votes bear to the total of Class A and Class B votes then outstanding. In other words, it is the intention hereof that Class B Members not be assessed to maintain the median islands at the entranceways.

b) for 100% of all expenses relating to the maintenance of all Maintained Property (such as easements and outfall structures) exclusively benefitting Class B Member property.

Section 2. Purpose of Assessments. The assessments levied by the Community Association shall be used for payment of costs of maintenance of the Maintained Property and such other matters as are more fully set forth in the articles of incorporation and bylaws of the Community Association.

Section 3. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Community Association Board of Directors may levy, in any assessment year, a special assessment applicable to that year only for expenses incurred by the Community Association for a matter that was unanticipated or deemed an emergency and of immediate necessity by the board of directors.

Section 4. Uniform Rate of Assessment. All Lots subject to a particular assessment shall be assessed on an equal basis. Assessments relating to services or matters affecting and unique to only certain Lots may be assessed against the affected Lots only. Assessments on Lots will be collected on an annual basis in advance.

Section 5. Date of Commencement of Annual Assessments Due Dates. The assessments provided for herein shall commence as to each Lot on the first day following the conveyance by Developer, its successor or assigns to the respective Owner. The first assessment shall be adjusted according to the number of days remaining in the year of closing. The Community Association Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates for the Association's assessments shall be established by the Board of Directors. The Community Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association 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 6. Effect of Nonpayment of Assessments Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum. Said assessment shall attach and become a lien against the Owner's Lot from and after the date of recording of a Claim of Lien in the public records of Duval County, Florida stating the amount of the unpaid assessment and interest thereon through the date of recording of said Claim of Lien. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the property of the Owner.

Section 7. Subordination of the Lien to Mortgages. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage, unless a Claim of Lien for such unpaid assessment was recorded prior to such first mortgage. Any party taking

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title to a Lot by virtue of the sale or transfer of such Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall not be responsible for payment of assessments which became due prior to such sale or transfer, unless the same were secured by Claim of Lien recorded prior to the mortgage. Any assessments which are waived by virtue of a person taking title to a Lot pursuant to mortgage foreclosure or proceeding in lieu thereof shall be distributed equally between all members of the Association as an Association expense. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE IV. COVENANTS AND RESTRICTIONS

Section 1. No building, fence, wall or other structure or improvement of any kind or nature shall be commenced, erected, altered, maintained or permitted to remain upon the Property, nor shall any exterior addition to or change or alteration, including painting, therein be made, nor shall any alteration made to the existing landscaping visible from the road right of way or any adjacent Lot or Lots be made, until the plans and specifications showing the nature, kind, shape, height, color, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Class C Member, if any. In the event said Class C member fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 2. The Developer may resubdivide, or replat, the Property in any way it sees fit for any purpose whatsoever. The restrictions herein contained, in case of any such replatting or resubdividing, shall apply to each lot as replatted or resubdivided.

Section 3. No home shall be constructed with less than 1250 square feet of heated/air conditioned living space.

Section 4. No trade, or business or noxious or offensive trade or activity, in the sole opinion of the Board of Directors shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 5. No mobile homes, tents, outbuildings or shacks shall be placed on any Lot except mobile homes used temporarily as sales offices and construction offices with the Developer's approval and such outbuildings of not greater than 200 square feet in size as are constructed in the same style and of the same color, material and exterior finish as the approved principal structure.

Section 6. No garage shall at any time be used as a separate residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence. No detached garages, single car garages, or carports shall be permitted.

Section 7. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that no more than two (2) dogs, two (2) cats, and two (2) of other household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes.

Section 8. No clothes or laundry shall be hung or clothes lines erected in front yards of any Lots or in any portion of the Lot which is visible from the street.

Section 9. Where a structure has been erected, or the construction thereof substantially advanced, and is situated on any lot or lots as now platted or on any subdivided or replatted lot in such manner that the same constitutes a violation or violations of the covenants as set out hereinbefore in this Article IV, the Developer shall have

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the right any time to release such lot or subdivided lots or building plot, or portion thereof, from the provisions of the said covenant.

Section 10. Utility Easements. The Developer shall have the right to grant subordinate easements to utility companies, governmental bodies and others over all or any portion of the Property for the purpose of carrying out or facilitating construction, installation and maintenance of utility service facilities, drainage facilities and/or road rights of way. Such facilities or road right of ways may benefit land not contained within the Property. No purchaser of a Lot or anyone claiming by through or under any such purchaser, shall have the right to interfere at any time with any such construction, installation or maintenance operations.

Section 11. No Signs. No signs of any kind, excluding "For Sale" and "For Rent" signs, shall be exhibited in any way on the Property other than those placed or erected by the Developer.

Section 12. Antennae. No aerial, antenna, satellite dish or similar device shall be placed or erected upon any Lot or affixed in any manner to the exterior of any building of such Lot unless same is not visible from the road; provided, however, that television antennae may be located on roof tops in such a way as to be visible from the street.

Section 13. Boats and Motor Vehicles. No boats, recreation vehicles or other motor vehicles, except properly licensed and tagged four-wheel passenger automobiles shall be placed, parked or stored upon any Lot in locations visible from the street. No maintenance or repair may be performed on vehicles except within a garage totally obscured from view of neighboring Lots and the street.

Section 14. Garbage and Trash Containers. No Lot shall be used or maintained as a dumping ground for rubbish, trash or other waste. All trash, garbage and other waste shall be kept in sanitary containers and completely screened from view, except during pickup, if required to be placed at the curb.

Section 15. Mailboxes. Unless attached to the dwelling, no mailbox, paper box or other receptacle of any kind for use in the delivery of mail, newspapers, magazines or similar material shall be erected on any Lot without prior written approval of the Class C Member, if any.

Section 16. Air Conditioning Equipment. Central air conditioning units only shall be permitted within the Property and window or wall air conditioning units shall be prohibited.

Section 17. Window Coverings. Reflecting window coverings treatments are expressly prohibited and only neutral, solid colored window coverings shall be permitted on any building on the Property. The Class C Member, if any, in its discretion, may control or prohibit window coverings and treatments not reasonably compatible with aesthetic standards of the Property.

Section 18. Fences. Fences shall be permitted only around the perimeter of the back and side yards extending no closer to the street than the rear of the house. Such fences shall be subject to the prior approval of the Class C Member, if any.

Section 19. Additional Use Restrictions. The Community Association or the Class C Member, if any, may adopt such additional use restrictions, rules or regulations, applicable to all or any portion or portions of the Property, as each may deem appropriate.

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OFFICIAL RECORDSARTICLE V. MISCELLANEOUS

Section 1. Assignment of Developer's Rights. The Developer shall have the sole and exclusive right at any time and from time to time, to transfer and assign to, and to withdraw from such person, firm, corporation, trust or other entity as it shall select, any or all rights, powers, easements, privileges, authorities and reservations given to or reserved by the Developer in these covenants and restrictions. If at any time hereafter there shall be no person, firm, corporation, trust or other entity entitled to exercise the rights, powers, privileges, authorities and reservations given to or reserved by the Developer under the provisions hereof, the same shall be vested in and be exercised by a committee to be elected or appointed by the Owners of a majority of the Lots.

Section 2. Amendments. The Developer reserves and shall have the right; without consent or joinder by Owners:

(a) to amend these covenants and restrictions, but all such amendments shall conform to the general purposes and standards of the covenants and restrictions herein contained;

(b) to amend these covenants and restrictions for the purpose of curing any ambiguity in or any inconsistency between the provisions contained herein;

(c) to include in any contract or deed or other instrument hereafter made any additional covenants and restrictions and easements applicable to the said land which do not lower the standards of the covenants and restrictions herein contained; and

(d) to release any Lot from any part of the covenants and restrictions which have been violated if the Developer, in its sole judgment, determines such violation to be a minor or insubstantial violation.

(e) to amend these covenants and restrictions to subject additional properties hereto and to amend these covenants and restrictions as to such additional property to add to or alter these restrictions to reflect the unique and different character of each such development.

In addition, the Developer reserves and shall have the right, with the consent of the persons then owning fifty one percent (51%) or more of the Lots located upon the Property, to amend or alter these covenants and restrictions and any parts thereof in any other respects. Any amendments to this Declaration of Covenants, Conditions and Restrictions shall be recorded in the Public Records of Duval County, Florida.

Section 3. Easements Reserved for Developer. Developer, for itself, its successors and assigns, hereby reserves a non-exclusive perpetual easement and right of ingress, egress, and access on, over, upon, across, through and under any and all portions of the Property which are paved and intended for use as pedestrian or vehicular rights of way. Developer hereby reserves the right to make necessary changes to the drainage system, utility system and rights of way for the benefit of other properties so long as such changes are not materially detrimental to the Property or the owners thereof.

Section 4. Easements Reserved to Developer and Association. Developer, for itself, its successors and assigns, and for the Association hereby reserves and grants a perpetual non-exclusive easement and right of ingress, egress and access on, over, upon, across, through and under all portions of the Property designated as Environmentally Protected Areas on the recorded Plats for purposes of maintenance thereof as needed and/or as required by governmental agencies and for the purpose of establishing and maintaining meandering trails for pedestrian and fishing use.

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Section 5. Consent for Additional Covenants. No Lot Owner, without the prior written approval of the Developer, may impose any additional covenants or restrictions on any part of the Property.

Section 6. Duration. These covenants and restrictions, as amended and added to, from time to time, as provided herein, shall, subject to the provisions hereof and unless released as herein provided, be deemed to be covenants running with the title to said land and shall remain in full force and effect until January 1, 2019, and thereafter the said covenants and restrictions shall be automatically extended for successive periods of ten (10) years each, unless within six (6) months prior to January 1, 2019, or within six months preceding the end of any such ten (10) year period, as the case may be, a written agreement executed by the then owners of a majority of the Lots shown on the Plat of the Property, amending this Declaration or any part hereof, shall be placed on record in the office of the appropriate agency of Duval County, Florida. In the event that such written agreement shall be executed and recorded as provided for above in this Section, these original covenants and restrictions, as therein modified, shall continue in force for successive periods of ten (10) years each, unless and until further changed or modified in the manner provided in this Section.

Section 7. Enforcement of Covenants. If any person, firm, corporation, trust or other entity shall violate or attempt to violate any of these covenants or restrictions, it shall be lawful for the Developer or Community Association, or any person or persons owning any Lot on said Property: (a) to prosecute proceedings for the recovery of damages against those so violating or attempting to violate any such covenant or restriction, or (b) to maintain a proceeding in any court of competent jurisdiction against those so violating or attempting to violate any such covenant or restriction for the purpose of preventing or enjoining all or any such violations or attempted violations. In addition, the Community Association Board of Directors shall have authority to levy fines for such violations. The remedies contained in this Section shall be construed as cumulative of all other remedies now or hereafter provided by law. The failure of the Developer or Community Association or homeowners association or Lot Owner or their respective successors or assigns, to enforce any covenant or restriction or any obligation, right, power, privilege, authority or reservation herein contained however long continued, shall, in no event, be deemed a waiver of the right to enforce the same thereafter as to the same breach or violation, or as to any other breach or violation thereof occurring prior or subsequent thereto.

Section 8. Annexation: Additional land located within Property or within the general geographical vicinity may be annexed by the Developer without the consent of Members within fifteen (15) years of the date of this instrument, by recording in the public records of Duval County, Florida, an amendment to this Declaration describing the property to be annexed and stating that such property is subject to this Declaration.

Section 9. Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended and enlarged by implication as to make them fully effective.

Section 10. Captions. The captions of each paragraph hereof are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular paragraph to which they refer.

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Section 11. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable and the use of the masculine pronoun shall include the neuter and feminine, wherever applicable.

Section 12. Provisions Severable. The invalidation of any provisions or provisions of the covenants and restrictions set forth herein by judgment or court order shall not affect or modify any of the other provisions of said covenants and restrictions which shall remain in full force and effect.

IN WITNESS WHEREOF, the Developer has caused this instrument to be executed by its duly authorized officers and their seals to be hereunto affixed all as of the day and year first above written.

Signed, sealed and delivered
in the presence of:

THREE CREEKS, INC.

By

Its _____ President _____

(CORPORATE SEAL)

STATE OF FLORIDA

COUNTY OF DUVAL

The foregoing was acknowledged before me this 19th day of December, 1988, by SCOTT FOSTER, the President of Three Creeks, Inc., Florida corporation, on behalf of said corporation.

Notary Public

My Commission Expires

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FIRST AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR MARIETTA FOREST

THIS AMENDMENT is made this 29th day of December, 1989, by
THREE CREEKS, INC., a Florida corporation, whose mailing address
is 118 West Adams Street, Suite 3A, Jacksonville, Florida 32202
(hereinafter called "Developer").

W I T N E S S E T H:

WHEREAS, Developer is the "Developer" under that certain
Declaration of Covenants, Conditions and Restrictions for Marietta
Forest recorded in Official Records Book 6632, page 0537 of the
public records of Duval County, Florida; and

WHEREAS, the Declaration under Article V, Section 2(e)
reserves to the Developer the right, without consent or joinder by
Owners, to amend the Declaration to subject additional properties
to its terms and amend the terms of the Declaration with respect
to such additional property; and

WHEREAS, Developer desires to annex that portion of the
additional property described in Exhibit "A" attached hereto
(hereinafter referred to as the "First Annexed Property") and to
subject such additional property to the provisions of the
Declaration as same may be amended with respect to said additional
property by the terms and conditions herein contained.

NOW THEREFORE, Developer hereby declares as follows:

1. All of the above recitals are true and correct.
2. The defined terms contained in Article I of the
Declaration shall have the same meaning when used in this First
Amendment to Declaration.
3. Except as expressly provided herein, the First Annexed
Property is hereby made subject to the provisions of the
Declaration. The definition "Property", as contained in the
Declaration, is hereby amended to include the First Annexed
Property for all purposes of the Declaration and this First
Amendment to Declaration.
4. All of the terms, conditions and provisions of the
Declaration shall apply to the First Annexed Property except as

RECORD AND RETURN TO:
William B. Ryan, Jr.
Ryan and Marks
3000-8 Hartley Road
Jacksonville, FL 32257

PREPARED BY: ~~XXXXXXXXXX~~
DOUGLAS A. VAND
ROGERS, TOWERS, BAILEY, JONES & GAY
ATTORNEYS AT LAW
1200 CULF LIFE DRIVE
JACKSONVILLE, FLORIDA 32207

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The undersigned is the owner of Lot 2 in Block 1 of the Property described herein and by its signature below does hereby subject its lot and subordinate all of its rights, title and interest in said lot to the terms of this Declaration of Covenants, Conditions and Restrictions for Marietta Forrest as set forth herein.

SCHULTZ BUILDERS, INC.

By: Ronald D. Hawkins
Its President

STATE OF FLORIDA

COUNTY OF DUVAL

The foregoing was acknowledged before me this 19th day of February, 1988, by Ronald D. Hawkins, the President of Schultz Builders, Inc., on behalf of said corporation.

Sharon Stewart
Notary Public

My Commission Expires:

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some of the provisions of the Declaration may be amended with respect to the First Annexed Property as follows, it being understood that the following amendments to the Declaration pertain only to the First Annexed Property and not to any of the other Property:

a. The terms of Article IV and the first sentence of Article V, Section 3 shall not apply to the First Annexed Property.

b. As to the First Annexed Property, Article II, Section 2 shall be amended to provide as set forth in Exhibit "B" attached hereto.

c. As to the First Annexed Property, Article III, Section 1 shall be amended to provide as set forth in Exhibit "C" attached hereto.

d. With respect to the First Annexed Property, Article V, Section 2 shall be amended to include the following additional provision:

"No amendment shall be made to the Declaration which changes the Covenants and Restrictions imposed upon the First Annexed Property without the prior written consent or joinder of the owner of said First Annexed Property if such amendment in any way adversely impacts the First Annexed Property."

5. Article III is hereby amended to add the following Section 8 thereto:

"Section 8. Association Obligations with Respect to the Maintained Property. The Community Association shall be obligated to maintain the Maintained Property and do such things as shall be necessary to the proper operation and functioning thereof for their intended respective purposes."

IN WITNESS WHEREOF, Developer has caused this First Amendment to Declaration of Covenants, Conditions and Restrictions to be executed the day and year first above written.

Signed, sealed and delivered
in the presence of:

John J. Johnson, Pres.
Mr. King, Sec'y.
As to Three Creeks, Inc.

THREE CREEKS, INC.

By *[Signature]*

Its: *[Signature]*

(CORPORATE SEAL)

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STATE OF FLORIDA
COUNTY OF DUVAL

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The foregoing was acknowledged before me this 29 day of
December, 1989, by Scott E. Foster, the Vice President
of THREE CREEKS, INC., a Florida corporation, on behalf of the
corporation.

My Key M. Foster
Notary Public

My Commission Expires:

NOTARY PUBLIC, STATE OF FLORIDA
My Commission Expires Sept. 28, 1992

EXHIBIT "A"TRACT A

A portion of Section 15, Township 2 South, Range 25 East, Duval County, Florida, being more particularly described as follows: COMMENCE at the Southeast corner of Lot 45, Block 2, Marietta Forrest Unit 1, as recorded in Plat Book 44, pages 53, 53A and 53B of the Current Public Records of said County; said point being situate in the Westerly right of way line of Bulls Bay Highway (a 66 foot right of way as now established), said right of way line being a curve concave Easterly and having a radius of 1381.90 feet; thence Southerly along said Westerly right of way line of Bulls Bay Highway and along and around the arc of said curve, an arc distance of 157.85 feet; said arc being subtended by a chord bearing and distance of South 40°44'54" East, 157.77 feet to the POINT OF BEGINNING; thence continue Southerly along said right of way line and along and around the arc of said curve, an arc distance of 367.58 feet; said arc being subtended by a chord bearing and distance of South 51°38'28" East, 366.50 feet; thence South 35°24'31" West, a distance of 189.11 feet; thence South 24°57'49" East, a distance of 130.00 feet to a point situate in the Northerly right of way line of Beaver Street (a 66 foot right of way as now established), said right of way line being a curve concave Southerly and having a radius of 1942.86 feet; thence Westerly along said Northerly right of way line of Beaver Street and along and around the arc of said curve, an arc distance of 114.02 feet; said arc being subtended by a chord bearing and distance of South 66°43'03" West, 114.00 feet to the Point of Tangency of said curve; thence South 65°02'11" West and continuing along said Northerly right of way line of Beaver Street, a distance of 410.31 feet; thence North 24°57'49" West, a distance of 504.06 feet to a point situate in the Southerly boundary of said Marietta Forrest Unit 1; thence North 55°38'41" East, a distance of 232.58 feet; thence North 63°56'39" East, a distance of 294.69 feet to the POINT OF BEGINNING.

OFFICIAL RECORDS

REVISED ARTICLE II, SECTION 3
OF THE
COVENANTS AND RESTRICTIONS

Section 2. Voting Rights. The Community Association shall have three classes of voting membership:

Class A - Class A Members shall be all Owners who have taken title to one or more Lots from the Developer, or from a successor in title to the Developer. Class A Members shall be entitled to one vote for each Lot in which they hold an interest required for membership in Section 1 hereof. When more than one person holds such interest in a Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine but in no event shall more than one vote be cast with respect to any Lot.

Class B - Class B Members shall be all owners of commercial property which has been annexed to the Property by the Developer.

The Class B Members shall have a number of votes equal to the lesser of: (i) twenty percent (20%) of the then outstanding votes of all Class A Members and Class B Members, or (ii) two percent (2%) of the then outstanding votes of all Class A Members and Class B Members for each acre of property owned by such Class B Members collectively, which has been subjected to these Covenants and Restrictions by annexation. The votes allocated to the Class B Members collectively shall be allocated to and voted by the Class B Members pro rata based upon the number of acres of Property owned by each Class B Member.

Class B Members shall be entitled to vote only on matters relating to that portion of the Maintained Property which is shown on the plats as Environmental Protected Areas, drainage outfall structures and easements, and the drainage retention ponds and areas, provided, however that Class B Members shall not have the right to vote upon nor be assessed for the construction or maintenance of any non-drainage related improvements. Class B Members shall not be entitled to vote nor have any obligations for the maintenance of other Maintained Property.

Class C - The Class C Member shall be Developer, which shall be entitled to a number of votes equal to the sum of all of the Class A and Class B votes, as they exist from time to time, plus one. Class C membership shall terminate when Developer no longer owns any portion of the Property.

EXHIBIT "C" OFFICIAL RECORDS

REVISED ARTICLE III, SECTION 1
OF THE
COVENANTS AND RESTRICTIONS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Community 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, costs, and reasonable attorney's fees, shall be a charge on the Member's lot from the date of recording of a Claim of Lien as hereinafter set forth. 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 property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them, however, the delinquent assessment shall remain a lien against the property until paid. The Developer shall not be subject to assessments for any lot or any acreage it owns and that may become subject to this Declaration. The Developer may assign this exemption right to any entity which obtains a portion of the Property for development purposes. Such an assignment shall have no effect on the Developer's exemption hereunder. Class B Members shall only be assessed as follows:

(a) for expenses relating solely to the maintenance of the storm water drainage/retention system serving the Property, including, without limitation, the environmentally protected areas serving as part of the overall drainage/retention system, retention ponds, drainage outfall easements and structures and the drainage retention areas, in the same proportion as the Class B votes bear to the total of Class A and Class B votes then outstanding. For purposes of this Agreement, the term "maintenance" shall include, without limitation, day to day maintenance expenses as well as costs of repairing, restoring or replacing all or any portion of the storm water drainage/retention system serving the Property.

(b) for one hundred percent (100%) of all expenses relating to the maintenance of Maintained Property (such as easements and outfall structures), if any, exclusively benefitting Class B Member property; provided, however, no Class B Member shall be assessed under this subparagraph (b) for expenses relating to the maintenance of any Maintained Property not benefitting such Class B Member's property. The obligations of the Class B Members under this subparagraph (b) shall be shared among those Class B Members exclusively benefitting from such Maintained Property, pro rata based on the number of acres of Property owned by each such Class B member which has been annexed to this Declaration.

FILED AND RECORDED
IN PUBLIC RECORDS
OF DALLAS COUNTY, TEXAS
JUN 11 4 45 PM '90
CLERK OF DISTRICT COURT

003642

78
 OFFICIAL RECORDS
 DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION is made this 27th day of December, 1989, by THREE CREEKS, INC., a Florida corporation (hereinafter the "Declarant").

R E C I T A L S:

WHEREAS, Declarant is the owner of certain real property described as Tract B, C and D on Exhibit "A" attached hereto (hereinafter collectively referred to as the "Property"); and

WHEREAS, Declarant now desires to subject the Property to certain restrictive covenants more particularly described below.

NOW, THEREFORE, the Declarant hereby subjects the Property to the following restrictive covenants:

1. No building shall be constructed on Tract C closer to twenty-five feet (25') from the existing right-of-way line of Bulls Bay Highway, a sixty-six foot (66') right-of-way. Nothing contained herein however, shall prevent the owner of said Tract C from constructing driveways, parking areas, signage or landscaping within this twenty-five foot (25') set back area. However, any landscaping constructed within this twenty-five foot (25') building restriction area shall not exceed four feet (4') in height.

2. No building shall be constructed on Tract B closer to forty feet (40') from the existing right-of-way line of West Beaver Street, a sixty-six foot (66') right-of-way. Nothing contained herein however, shall prevent the owner of Tract B from constructing driveways, parking areas, signage or landscaping within this forty foot (40') building set back area. However, any landscaping constructed within this forty foot (40') building restriction area shall not exceed four feet (4') in height.

3. Any building constructed upon Tract B shall have its exposed exterior walls consist of predominately one or more of the following materials: glass, brick, concrete block, stucco, concrete tilt-up or similar masonry materials.

RECORD AND RETURN TO:
 William B. Ryan, Jr.
 Ryan and Marks
 3000-8 Hartley Rd.
 Jacksonville, FL 32257

PREPARED BY ~~XXXXXXXXXX~~
 DOUGLAS A. WARD
 ROGERS, LOWERS, DANCY, JONES & GAY
 ATTORNEYS AT LAW
 1360 GULF LIFE DRIVE
 JACKSONVILLE, FLORIDA 32207

DWW/3-CREEKS.DEC

OFFICIAL RECORDS

4. No building shall be constructed on Tract D closer to twenty-five feet (25') from the property lines common to Tract A (the "Shopping Center Parcel"), which is described on attached Exhibit "B" hereto. Nothing contained herein however, shall prevent the owner of said Tract D from constructing driveways, parking areas, signage or landscaping structures within this twenty-five foot (25') set back area. However, any landscaping structure constructed within the twenty-five foot (25') building restriction area shall not exceed four feet (4') in height.

5. No building shall be constructed on Tract D which will exceed thirty-two feet (32') in height and shall have its exposed exterior walls consist of predominately one or more of the following materials: glass, brick, concrete block, stucco, concrete tilt-up or similar masonry materials.

6. No business shall be operated on Tract D which shall substantially compete with the primary business of a supermarket/grocery store which is to be located on the Shopping Center Parcel. This restriction shall include, but not be limited to, a delicatessen, convenience store, and/or businesses that include the sale of uncooked, packaged or fresh seafood, meat, poultry, produce, vegetables or dairy products (excluding ice cream cones) and bakery products for off-premises consumption. This restriction shall specifically not include a gas station which also sells convenience food items.

7. In the event that Food Lion, Inc., or their successor, is operating a grocery store/supermarket on the Shopping Center Parcel, then Tract D shall not be used as a restaurant (sit down, fast food, drive through or otherwise) without the specific prior written consent of Food Lion, Inc. or its successor.

8. The restrictive covenant contained herein shall have a duration of fifty (50) years from the date of recording this Declaration. After such fifty (50) year time period, this Declaration shall expire by its terms and be of no further force and effect.

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OFFICIAL RECORDS

IN WITNESS WHEREOF, the party has caused this Declaration to be executed the day and year first above written.

Signed, sealed and delivered in the presence of:

John Ferguson Root
Mr. K. M. Muffit
As to Three Creeks, Inc.

THREE CREEKS, INC., a Florida corporation

By [Signature]
Its: V. President

(CORPORATE SEAL)

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing was acknowledged before me this 29 day of December, 1989, by Scott R. Foster the Vice President of THREE CREEKS, INC., a Florida corporation on behalf of the corporation.

Mr. K. M. Muffit
Notary Public

My Commission Expires

NOTARY PUBLIC, STATE OF FLORIDA
My Commission Expires Sept. 18, 1991

OFFICIAL RECORDS

TRACT B

A portion of Section 15, Township 2 South, Range 25 East, Duval County, Florida and being more particularly described as follows: COMMENCE at the Southeast corner of Lot 45, Block 2, Marietta Forrest Unit 1, as recorded in Plat Book 44, Pages 53, 53A and 53B of the Current Public Records of said County; thence South $51^{\circ}48'13''$ West along the Southerly boundary of said Marietta Forrest Unit 1, a distance of 388.75 feet to an angle point in said boundary line; thence South $19^{\circ}02'11''$ West and continuing along said Southerly boundary line, a distance of 147.91 feet to the POINT OF BEGINNING; thence South $24^{\circ}57'49''$ East, a distance of 504.06 feet to a point situate in the Northerly right of way line of Beaver Street (a 66 foot right of way as now established); thence South $65^{\circ}02'11''$ West along last said line, a distance of 255.00 feet to the Southeast corner of Lot 48 of said Marietta Forrest Unit 1; thence North $24^{\circ}57'49''$ West along the Easterly boundary of said Marietta Forrest Unit 1, a distance of 240.00 feet to an angle point in said line; thence North $19^{\circ}02'11''$ East along said boundary line of Marietta Forrest Unit 1, a distance of 367.09 feet to the POINT OF BEGINNING.

TRACT C

A portion of Section 15, Township 2 South, Range 25 East, Duval County, Florida and being more particularly described as follows: BEGIN at the Southeast corner of Lot 45, Block 2, Marietta Forrest Unit 1, as recorded in Plat Book 44, Pages 53, 53A and 53B of the Current Public Records of said County; said point being situate in the Westerly right of way line of Bulls Bay Highway (a 66 feet right of way as now established), said right of way line being a curve concave Easterly and having a radius of 1381.90 feet; thence Southerly along said Westerly right of way line of Bulls Bay Highway and along and around the arc of said curve, an arc distance of 157.85 feet; said arc being subtended by a chord bearing and distance of South $40^{\circ}44'54''$ East, 157.77 feet; thence South $63^{\circ}55'39''$ West, a distance of 294.69 feet; thence South $65^{\circ}38'41''$ West, a distance of 232.58 feet to a point situate in the Southerly boundary line of said Marietta Forrest Unit 1; thence North $19^{\circ}02'11''$ East along last said line, a distance of 147.91 feet to an angle point in said boundary line; thence North $51^{\circ}48'13''$ East and continuing along said Southerly boundary line, a distance of 388.75 feet to the POINT OF BEGINNING.

OFFICIAL RECORDS

TRACT D

A portion of Section 15, Township 2 South, Range 25 East, Duval County, Florida, being more particularly described as follows:

COMMENCING at the Southeast corner of Lot 28, Block 2, Marietta Forrest Unit 1, as recorded in Plat Book 44, Pages 53, 53A and 53B of the Current Public Records of said County; said point also being situate in the Northerly right of way line of Beaver Street (a 66 foot right of way as now established); thence North $65^{\circ}02'11''$ East, along said Northerly right of way line, a distance of 665.31 feet to the Point of Curvature of a curve to the right concave Southerly and having a radius of 1942.86 feet; thence Easterly around and along the arc of said curve and along said Northerly right of way line, a distance of 114.02 feet; said arc being subtended by a chord bearing and distance of North $66^{\circ}43'03''$ East, 114.00 feet for a POINT OF BEGINNING; thence North $24^{\circ}57'49''$ West, a distance of 130.00 feet; thence North $35^{\circ}24'31''$ East, a distance of 189.11 feet to a point situate in the Southeasterly right of way line of Bulls Bay Highway (a 66 foot right of way); said right of way line being a curve concave Northeasterly and having a radius of 1381.90 feet; thence Southwesterly around and along the arc of said curve and along said Southwesterly right of way line, a distance of 197.17 feet; said arc being subtended by a chord bearing and distance of South $63^{\circ}20'56''$ East, 197.00 feet to the Point of Tangency of said curve; thence South $67^{\circ}25'11''$ East, and continuing along said Southwesterly right of way line, a distance of 185.12 feet to its intersection with the aforementioned curved Northerly right of way line of Beaver Street; thence Westerly around and along the arc of said curve, a distance of 420.38 feet; said arc being subtended by a chord bearing and distance of South $74^{\circ}35'51''$ West, 419.56 feet to the POINT OF BEGINNING.

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OFFICIAL RECORDS

TRACT A

A portion of Section 15, Township 2 South, Range 25 East, Duval County, Florida, being more particularly described as follows: COMMENCE at the Southeast corner of Lot 45, Block 2, Marietta Forrest Unit 1, as recorded in Plat Book 44, pages 53, 53A and 53B of the Current Public Records of said County; said point being situate in the Westerly right of way line of Bulls Bay Highway (a 66 foot right of way as now established), said right of way line being a curve concave Easterly and having a radius of 1381.90 feet; thence Southerly along said Westerly right of way line of Bulls Bay Highway and along and around the arc of said curve, an arc distance of 157.85 feet; said arc being subtended by a chord bearing and distance of South 40°44'54" East, 157.77 feet to the POINT OF BEGINNING; thence continue Southerly along said right of way line and along and around the arc of said curve, an arc distance of 367.58 feet; said arc being subtended by a chord bearing and distance of South 51°38'28" East, 366.56 feet; thence South 35°24'31" West, a distance of 189.11 feet; thence South 24°57'49" East, a distance of 130.00 feet to a point situate in the Northerly right of way line of Beaver Street (a 56 foot right of way as now established), said right of way line being a curve concave Southerly and having a radius of 1942.86 feet; thence Westerly along said Northerly right of way line of Beaver Street and along and around the arc of said curve, an arc distance of 114.02 feet; said arc being subtended by a chord bearing and distance of South 66°43'03" West, 114.00 feet to the Point of Tangency of said curve; thence South 65°02'11" West and continuing along said Northerly right of way line of Beaver Street, a distance of 410.31 feet; thence North 24°57'49" West, a distance of 504.06 feet to a point situate in the Southerly boundary of said Marietta Forrest Unit 1; thence North 55°38'41" East, a distance of 232.58 feet; thence North 63°56'39" East, a distance of 294.69 feet to the POINT OF BEGINNING.

RECORDED
 INDEXED
 H. J. [Signature]
 CLERK OF CIRCUIT COURT

JUN 11 4 45 PM '90

FILED AND RECORDED
 IN PUBLIC RECORDS
 OF FLA

003643

EXHIBIT B

OFFICIAL RECORDS

SECOND AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR MARIETTA FORREST

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MARIETTA FORREST ("Amendment") is made this 10th day of June, 1991, by THREE CREEKS, INC., a Florida corporation, whose mailing address is 118 W. Adams Street, Suite 3A, Jacksonville, Florida 32202 ("Developer") and joined in by LIMICK, L.P., a Georgia limited partnership.

WITNESSETH:

WHEREAS, Developer executed that certain Declaration of Covenants, Conditions and Restrictions for Marietta Forrest, dated December 19, 1988, and recorded in Official Records Volume 6632, at Page 0537 ("Declaration"), and modified by that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Marietta Forest recorded in Official Records Volume 6823, at Page 1855 ("First Amendment") all of the Public Records of Duval County, Florida ("First Amendment"); and

WHEREAS, Developer reserved the right to amend the Declaration in Article V, Section 2 thereof; and

Whereas, Developer desires to amend the Declaration in accordance with the terms and provisions of Article V, Section 2 as hereinafter described.

NOW, THEREFORE, Developer hereby amends and modifies the Declaration as more particularly set forth below:

1. In the event the terms of this Amendment should conflict with the terms and provisions of the Declaration, the terms and provisions of this Amendment shall control.

2. In conformance with the general purposes and standards of the Declaration as prescribed by Article V, Section 2(a) and as the owner of 50+ "Lots" (as described in the Declaration) of a total of 50 Lots located upon the "Property" (as defined in the Declaration) which exceeds fifty-one percent (51%) of said Lots, Developer hereby deletes Article IV, Section 3 of the Declaration in its entirety and the following is inserted in its stead:

No home shall be constructed with less than One Thousand One Hundred (1,100) square feet of heated/air conditioned living space.

3. Except as specifically provided herein, the terms and provisions of the Declaration shall remain in full force and effect in accordance with the terms and provisions thereof.

IN WITNESS WHEREOF, the undersigned have executed this Second Amendment as of the date first set forth above.

Signed and sealed
in the presence of:

Helen Wingfield
Helen Wingfield (Printed Name)

Robert Deane
Robert Deane (Printed Name)

THREE CREEKS, INC., a Florida corporation

By: Scott R. Foster
Scott R. Foster, V.P.E.



The undersigned, as owner of the "First Annexed Property" (as described in the First Amendment, hereby joins in this Second Amendment for the purpose of acknowledging and consenting to the terms and provisions hereof.

LIMICK, L.P., a Georgia limited partnership
LIMICK

Philip Tallver
Philip Tallver (Printed Name)

Raymond
Raymond (Printed Name)

By: Bruce W. Derrick
Bruce W. Derrick, General Partner

W:\jmi06501.3rd2nd.amd

Prepared By:
LEONARDO J. MAIMAN
Rogers, Towers, Bailey, Jones & Gay,
1300 Gulf Life Drive
Jacksonville, Florida 32207

Return to: →

LEONARDO J. MAIMAN
Rogers, Towers, Bailey, Jones & Gay,
1300 Gulf Life Drive
Jacksonville, FL 32207

(2)

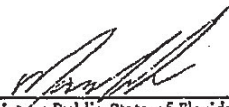
VOL 7164 PG 2272

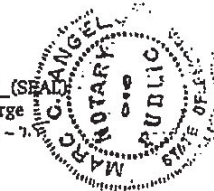
OFFICIAL RECORDS

STATE OF FLORIDA
COUNTY OF DUVAL

I HEREBY CERTIFY that on this day before me, a Notary Public authorized in the State and County named above to take acknowledgements personally appeared Scott R. Foster, to me known to be the VICE President of Three Creeks, Inc., a Florida corporation, who signed the foregoing instrument as such person, and acknowledged the execution thereof to be his free act and deed as such person for the uses and purposes therein mentioned, and he affixed thereto the official seal of said corporation, and that the said instrument is the act and deed of said corporation.

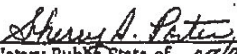
WITNESS my hand and official seal in the State and County last aforesaid this 10th day of July, 1991.

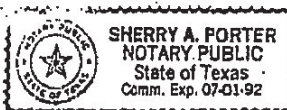

Notary Public State of Florida at Large
My Commission Expires: 2-13-97

STATE OF Florida Texas
COUNTY OF Dallas Harris

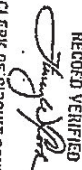
I HEREBY CERTIFY that on this day before me, a Notary Public authorized in the State and County named above to take acknowledgements personally appeared Bruce W. Derrick, as general partner on behalf of LIMIK, L.P., a Georgia limited partnership, who signed the foregoing instrument as such person for the uses and purposes therein mentioned.

LIMIK
WITNESS my hand and official seal in the State and County last aforesaid this 17th day of July, 1991.


Notary Public State of TX at Large
My Commission Expires: 07/01/92



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FILED AND RECORDED
IN PUBLIC RECORDS
COUNTY FLA

91 AUG 20 PM 12:58
RECORD VERIFIED

CLERK OF CIRCUIT COURT

Return
to →

THIS INSTRUMENT WAS PREPARED BY:
WILLIAM B. RYAN, JR., Attorney
RYAN AND MARKS
3000-B HARTLEY ROAD
JACKSONVILLE, FLORIDA 32257

VOL 7018 PG 1691

OFFICIAL RECORDS

SECOND AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR MARIETTA FOREST AND SPREADING OF DECLARATION
OF RESTRICTED COVENANT

THIS AGREEMENT is made this 12 day of December, 1990, by and between THREE CREEKS, INC., a Florida corporation, hereinafter referred to as "Seller" and LIMIK, L.P., a Georgia Limited Partnership, hereinafter referred to as "Buyer". This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, devisees, legal representatives, successors in interest and assigns.

FOR VALUE RECEIVED, the undersigned stipulate and agree as follows:

1. Introduction. On December 29, 1989, the Seller and the Buyer consummated a sale and purchase of certain lands described in the Special Warranty Deed recorded in Official Records Volume 6823, page 1835, of the current public records of Duval County, Florida.

This day, the parties are completing the sale and purchase of adjoining lands described in Exhibit A, which is attached hereto and incorporated by this reference.

As a part of the 1989 transaction, the parties agreed to, and, as their interests appear, made and issued the First Amendment to Declaration of Covenants, Conditions and Restrictions for Marietta Forest, recorded in Official Records Volume 6823, page 1255, and the Declaration of Restrictive Covenant recorded in Official Records Volume 6823, page 1861, both of the current public records of Duval County, Florida. Herein, those documents shall be referred to as "First Amendment" and "Declaration", respectively.

In order to preserve and extend existing rights and duties, the parties have agreed to make this instrument as a part of the transaction of this date.

2. Second Amendment and Spreading. The First Amendment and the Declaration are hereby amended and spread so that their rights and duties now equally apply to this transaction and the lands described in the attached Exhibit A.

3. Authority of Parties. The parties represent and warrant that they have full legal power and right to enter into and to perform this Agreement, without joinder or approval of others.

4. Effect of This Instrument. Except as expressly modified and extended by this instrument, all terms and conditions of the First Amendment and Declaration shall remain in full force and effect.

5. Captions. Captions have been used for convenience only and shall not be used to alter or limit the substance of this instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate counterparts on the date first above written.

3)

for

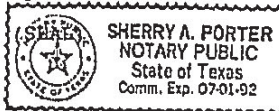
OFFICIAL RECORDS

Signed, Sealed and Delivered
in the Presence of:William B. Ryan, Jr.
Paula J. RyanTHREE CREEKS, INC.
a Florida corporationBy: Scott R. Foster
Scott R. Foster
its Vice-PresidentLimik, L.P.
Bruce W. DerrickLIMIK, L.P., a Georgia Limited
PartnershipBy: Bruce W. Derrick
Bruce W. Derrick
its General PartnerSTATE OF FLORIDA,
COUNTY OF DUVAL:The foregoing was acknowledged before me this 12
day of December, 1990, by Scott R. Foster, the Vice-
President of Three Creeks, Inc., a Florida corporation, on
behalf of the corporation.WILLIAM BENEDICT RYAN, JR.
NOTARY PUBLIC, STATE OF FLORIDA
MY COMMISSION EXPIRES MARCH 14, 1992William Benedict Ryan, Jr.
Notary PublicMy Commission Expires: 3/14/92

(SEAL)

STATE OF TEXAS,
COUNTY OF HARRIS:The foregoing was acknowledged before me this 10th
day of December, 1990, by Bruce W. Derrick, a General
Partner of Limik, L.P., a Georgia Limited Partnership, on
behalf of the Limited Partnership.Sherry A. Porter
Notary Public

My Commission Expires:



LIMIK2.AMD.

EXHIBIT ATRACT E

A portion of Section 15, Township 2 South, Range 25 East, Duval County, Florida, being more particularly described as follows: COMMENCE at the Southeast corner of Lot 45, Block 2, Marietta Forrest Unit 1, as recorded in Plat Book 44, Pages 53, 53A and 53B of the current public records of said County; said point being situate in the Westerly right of way line of Bulls Bay Highway (a 66 foot right of way as now established), said right of way line being a curve concave Easterly and having a radius of 1381.90 feet; thence Southerly along said Westerly right of way line of Bulls Bay Highway and along and around the arc of said curve, an arc distance of 157.85 feet; said arc being subtended by a chord bearing and distance of South 40 degrees 44'54" East, 157.77 feet to the POINT OF BEGINNING; thence South 63 degrees 56'39" West, 294.69 feet; thence North 40 degrees 41'39" East 65.00 feet; thence North 65 degrees 02'11" East, 172.00 feet; thence North 83 degrees 30'08" East, 66.85 feet to the POINT OF BEGINNING.

Containing 0.1286 acres, more or less.

90 DEC 26 AM 9:08

RECORDS REVIEWED



CLERK OF COUNTY COURT

30-0138135

FILED AND RECORDED
IN PUBLIC RECORDS
OF DUVAL COUNTY FLA

JAP

OFFICIAL RECORDS

Record & Return To:
L. ALLEN FINE, JR.
Realty, Inc., P.O. Box 800, Cay. Pk.
1300 Gulf Lanes
Jacksonville, Florida 32207

FOURTH AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR MARIETTA FORREST

THIS AMENDMENT is made this 10th day of September, 1991, by
THREE CREEKS, INC., a Florida corporation, whose mailing address
is 118 West Adams Street, Suite 3A, Jacksonville, Florida 32202
(hereinafter called "Developer").

WITNESSETH:

WHEREAS, Developer is the "Developer" under that certain
Declaration of Covenants, Conditions and Restrictions for Marietta
Forrest ("Declaration") recorded in Official Records Volume 6632,
page 0537, and modified by that certain First Amendment to
Declaration of Covenants, Conditions and Restrictions for Marietta
Forrest recorded in Official Records Volume 6823, page 1855, that
certain Second Amendment to Declaration of Covenants, Conditions
and Restrictions for Marietta Forrest and Spreading of Declaration
of Restricted Covenant recorded in Official Records Volume 7018,
page 1691, and that certain Second Amendment to Declaration of
Covenants, Conditions and Restrictions for Marietta Forrest
recorded in Official Records Volume 7164, page 2271, all of the
current public records of Duval County, Florida; and

WHEREAS, the Declaration under Article V, Section 2(e),
reserves to the Developer the right, without consent or joinder by
Owners, to amend the Declaration to subject additional properties
to its terms and amend the terms of the Declaration with respect
to such additional property; and

WHEREAS, Developer desires to annex that portion of the
additional property described in Exhibit "A" attached hereto
(hereinafter referred to as the "Second Annexed Property") and to
subject such additional property to the provisions of the
Declaration as same may be amended with respect to said additional
property by the terms and conditions herein contained.

NOW, THEREFORE, Developer hereby declares as follows:

1. All of the above recitals are true and correct.

Prepared By and Return To:

DOUGLAS A. WART

daw/Screaks, and

Realty, Inc., P.O. Box 800, Cay. Pk.
1300 Gulf Lanes
Jacksonville, Florida 32207

28.50

OFFICIAL RECORDS

2. The defined terms contained in Article I of the Declaration shall have the same meaning when used in this Fourth Amendment to Declaration.

3. Except as expressly provided herein, the Second Annexed Property is hereby made subject to the provisions of the Declaration. The definition "Property", as contained in the Declaration, is hereby amended to include the Second Annexed Property for all purposes of the Declaration and this Fourth Amendment to Declaration.

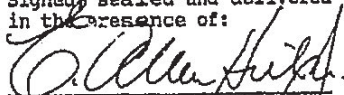
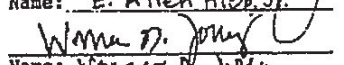
4. All of the terms, conditions and provisions of the Declaration shall apply to the Second Annexed Property except as some of the provisions of the Declaration may be amended with respect to the Second Annexed Property as follows, it being understood that the following amendments to the Declaration pertain only to the Second Annexed Property and not to any of the other Property:

(a) The terms of Article IV shall not apply to the Second Annexed Property.


(b) As to the Second Annexed Property, Article II, Second 2 shall be amended to provide as set forth in Exhibit "B" attached hereto.

(c) As to the Second Annexed Property, Article III, Second 1 shall be amended to provide as set forth in Exhibit "C" attached hereto.

IN WITNESS WHEREOF, Developer has caused this Fourth Amendment to Declaration of Covenants, Conditions and Restrictions for Marietta Forrest to be executed the day and year first above written.

Signed, sealed and delivered
in the presence of:

Name: E. Allen Hieb, Jr.

Name: William D. Jolly

THREE CREEKS, INC.

By: 
Name: John R. Schultz
Its: President
(Corporate Seal)


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STATE OF FLORIDA

COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 10th
day of September, 1991, by John R. Schultz,
as President of Three Creeks, Inc., a Florida
corporation, on behalf of said corporation.


Notary Public, State of Florida
Name: E. Allen Hieb Jr.

My Commission Expires: _____



E. ALLEN HIEB, JR.
MY COMMISSION EXPIRES
May 21, 1995
BONDED BY THE FARM INSURANCE CO.

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EXHIBIT "A"

TRACT D

A portion of Section 15, Township 2 South, Range 25 East, Duval County, Florida, being more particularly described as follows:

COMMENCING at the Southeast corner of Lot 28, Block 2, Marietta Forrest Unit 1, as recorded in Plat Book 44, pages 53, 53A and 53B of the Current Public Records of said County; said point also being situate in the Northerly right of way line of Beaver Street (a 66 foot right of way as now established); thence North 65°02'11" East, along said Northerly right of way line, a distance of 665.31 feet to the Point of Curvature of a curve to the right concave Southerly and having a radius of 1942.86 feet; thence Easterly around and along the arc of said curve and along said Northerly right of way line, a distance of 114.02 feet; said arc being subtended by a chord bearing and distance of North 66°43'03" East, 114.00 feet for a POINT OF BEGINNING; thence North 24°57'49" West, a distance of 130.00 feet; thence North 35°24'31" East, a distance of 189.11 feet to a point situate in the Southeasterly right of way line of Bulls Bay Highway (a 66 foot right of way); said right of way line being a curve concave Northeasterly and having a radius of 1381.90 feet; thence Southwesterly around and along the arc of said curve and along said Southwesterly right of way line, a distance of 197.17 feet; said arc being subtended by a chord bearing and distance of South 63°20'56" East, 197.00 feet to the Point of Tangency of said curve; thence South 67°26'11" East, and continuing along said Southwesterly right of way line, a distance of 56.07 feet to the Point of Curvature of a curve concave Westerly and having a radius of 40.00 feet; thence along and around the arc of said curve, 100.79 feet, said arc being subtended by a chord bearing and distance of South 04°45'08" West, 76.17 feet to a point situate in the aforementioned curved Northerly right of way line of Beaver Street; thence Westerly around and along the arc of said curve, a distance of 289.65 feet; said arc being subtended by a chord bearing and distance of South 72°40'11" West, 289.38 feet to the POINT OF BEGINNING.

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REVISED ARTICLE II, SECTION 2
OF THE
COVENANTS AND RESTRICTIONS

Section 2. Voting Rights. The Community Association shall have three classes of voting membership:

Class A - Class A Members shall be all Owners who have taken title to one or more Lots from the Developer, or from a successor in title to the Developer. Class A Members shall be entitled to one vote for each Lot in which they hold an interest required for membership in Section 1 hereof. When more than one person holds such interest in a Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine but in no event shall more than one vote be cast with respect to any Lot.

Class B - Class B Members shall be all owners of commercial property which has been annexed to the Property by the Developer.

The Class B Members shall have a number of votes equal to the lesser of: (i) twenty percent (20%) of the then outstanding votes of all Class A Members and Class B Members, or (ii) two percent (2%) of the then outstanding votes of all Class A Members and Class B Members for each acre of property owned by such Class B Members collectively, which has been subjected to these Covenants and Restrictions by annexation. The votes allocated to the Class B Members collectively shall be allocated to and voted by the Class B Members pro rata based upon the number of acres of Property owned by each Class B Member.

Class B Members shall be entitled to vote only on matters relating to that portion of the Maintained Property which is shown on the plats as Environmental Protected Areas, drainage outfall structures and easements, and the drainage retention ponds and areas, provided, however that Class B Members shall not have the right to vote upon nor be assessed for the construction or maintenance of any non-drainage related improvements. Class B Members shall not be entitled to vote nor have any obligations for the maintenance of other Maintained Property.

Class C - The Class C Member shall be Developer, which shall be entitled to a number of votes equal to the sum of all of the Class A and Class B votes, as they exist from time to time, plus one. Class C membership shall terminate when Developer no longer owns any portion of the Property.

EXHIBIT "B"

7180 PG 1456

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EXHIBIT "C"

REVISED ARTICLE III, SECTION 1
OF THE
COVENANTS AND RESTRICTIONS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Community 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, costs, and reasonable attorney's fees, shall be a charge on the Member's lot from the date of recording of a Claim of Lien as hereinafter set forth. 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 property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them, however, the delinquent assessment shall remain a lien against the property until paid. The Developer shall not be subject to assessments for any lot or any acreage it owns and that may become subject to this Declaration. The Developer may assign this exemption right to any entity which obtains a portion of the Property for development purposes. Such an assignment shall have no effect on the Developer's exemption hereunder. Class B Members shall only be assessed as follows:

(a) for expenses relating solely to the maintenance of the storm water drainage/retention system serving the Property, including, without limitation, the environmentally protected areas serving as part of the overall drainage/retention system, retention ponds, drainage outfall easements and structures and the drainage retention areas, in the same proportion as the Class B votes bear to the total of Class A and Class B votes then outstanding. For purposes of this Agreement, the term "maintenance" shall include, without limitation, day to day maintenance expenses as well as costs of repairing, restoring or replacing all or any portion of the storm water drainage/retention system serving the Property.

(b) for one hundred percent (100%) of all expenses relating to the maintenance of Maintained Property (such as easements and outfall structures), if any, exclusively benefitting Class B Member property; provided, however, no Class B Member shall be assessed under this subparagraph (b) for expenses relating to the maintenance of any Maintained Property not benefitting such Class B Member's property. The obligations of the Class B Members under this subparagraph (b) shall be shared among those Class B Members exclusively benefitting from such Maintained Property, pro rata based on the number of acres of Property owned by each such Class B member which has been annexed to this Declaration.

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RECORDED
IN PUBLIC RECORDS
COUNTY OF FLA

RECORD VERIFIED

Theresa J. [Signature]

CLERK OF CIRCUIT COURT

BY-LAWS
OF
MARIETTA FORREST HOMEOWNERS ASSOCIATION, INC.
a Florida Corporation Not For Profit

1. IDENTITY.

1.1 Applicability. These are the By-Laws of MARIETTA FORREST HOMEOWNERS ASSOCIATION, INC. (the "Association"), a Florida corporation not for profit organized pursuant to the provisions of Chapter 617 Florida Statutes, 1985, as amended to the date of filing of the Articles of Incorporation. The purpose and object of the Association shall be to maintain and upkeep the environmentally protected areas, drainage outfalls and retention ponds (for drainage retention) as shown on the plats, and the median islands located at the entrances to Marietta Forrest, a planned development community located in Duval County, Florida (altogether referred to as the "Maintained Property"), and enforce the covenants and restrictions contained within the Declaration of Covenants, Conditions and Restrictions for Marietta Forrest, and any amendments thereto, (the "Declaration") which are applicable to the Members of the Association and their Lots (as defined in the Declaration and Association Articles).

1.2 Office. The office of the Association shall be at 118 W. Adams Street, Suite 3A, Jacksonville, Duval County, Florida 32202 or at such other place as may be established by resolution of the Board of Directors.

1.3 Fiscal Year. The fiscal year of the Association shall be the first day of January through the last day of December.

1.4 Seal. The seal of the Association shall bear the name of MARIETTA FORREST HOMEOWNERS ASSOCIATION, INC., the word "Florida", and the year of incorporation.

2. MEMBERSHIP, VOTING, QUORUM, PROXIES.

2.1 Membership. The qualification of members of the Association (the "Member(s)"), the manner of their admission to membership and termination of such membership, shall be as set forth in Article IV of the Articles, the provisions of which are incorporated herein by reference.

2.2 Quorum. A quorum at meetings of Members shall consist of persons entitled to cast a majority of the votes of the membership entitled to vote upon any matter or matters arising at said meeting.

2.3 Voting.

(a) Each Lot Owner as defined in the Declaration and the Articles, other than Three Creeks, Inc., a Florida corporation, (the "Developer") shall be a Class A Member, as that term is defined in the Articles, and shall be assigned the right to cast one vote at any meeting of Members.

(b) The Developer shall be the Class B Member, as that term is defined in the Articles, and shall be entitled to the same number of votes as the aggregate of Class A votes plus one.

(c) If a Lot is owned by one person, his right to vote shall be established by the record title to his Lot.

(d) If any Lot is owned by more than one person or a partnership, corporation, trust, or any other association or entity,

the person entitled to cast the vote for Lot shall be designated by a certificate signed by all of the record owners of the Lot or by the President, general partner or other chief executive officer of the respective entity and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until ownership of the Lot is changed. A certificate designating the person entitled to cast the vote of a Lot may be revoked by any owner of that Lot. If such a certificate is not on file, the vote of such owners shall not be considered in determining the requirement for a quorum nor for any other purpose.

2.4 Vote Required. Except as otherwise required under the provisions of the Articles, these By-Laws or the Declaration, or where the same otherwise may be required by law, at any meeting of the general membership of the Association, duly called and at which a quorum is present, the acts approved by the affirmative vote of a majority of the votes present at such meeting shall be binding upon the Members.

2.5 Proxies. At any meeting of the Members, every Member having the right to vote shall be entitled to vote in person or by proxy, provided that no person shall be designated to hold more than ten (10) proxies. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. All such proxies shall be filed with the Secretary prior to or during the roll call of such meeting. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the Lot owner executing it.

3. MEMBERS' MEETINGS.

3.1 Annual Meeting. The annual meeting of the Members shall be held at the office of the Association or such other place as the Board of Directors may determine, and at such time as may be specified in the notice of the meeting, on the first Tuesday in November of each year or such other date as determined by the Board for the purpose of electing Directors and of transacting any other business authorized to be transacted by the Members; provided, however, that if that day is a legal holiday, the meeting shall be held on the next succeeding first Tuesday, or such day as the Directors shall determine and include in the notice of meeting.

3.2 Special Meeting. Special meetings of the entire membership of the Association 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 a majority of the votes of the entire membership.

3.3 Notice of Meetings.

(a) Generally. Written notice of all meetings of Members shall be given by the Secretary or, in the absence of the Secretary, another officer of the Association, to each Member or class of Members, if any, unless waived in writing. Each notice shall state the time and place of and purpose for which the meeting is called and shall be mailed to the Members at least fourteen (14) days prior to said meeting.

(b) Annual. Notice of the Annual Meeting shall be given to each Member not less than fourteen (14) days nor more than sixty (60) days prior to the date set for the meeting, and shall be mailed or delivered personally to each Member. If mailed, 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, and the post office certificate of mailing shall be retained as proof of such mailing.

(c) Special. Notice of Special Meetings shall be given to each Member not less than fourteen (14) days prior to the date set for the meeting and shall be mailed or delivered personally to the Member.

(d) Waiver. Any Member may, in writing signed by such Member, waive such notice, and such waiver, when filed in the records of the Association, whether before, at or after the holding of the meeting, shall constitute notice to such Member.

(e) Adjourned Meetings. If any meeting of Members cannot be held because a quorum is not present, or because a greater percentage of the membership required to constitute a quorum for a particular purpose is not present, wherever the latter percentage of attendance may be required as set forth in the Articles or the By-Laws, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum, or the required percentage of attendance, if greater than a quorum, is present.

3.4 Presiding Officer and Minutes. At meetings of Members, the Chairman of the Board, or in his absence, the President, shall preside, or in the absence of both, the Members present shall select a chairman of the meeting. Minutes shall be kept in a business like manner and available for inspection by Directors, lot owners and their authorized representatives during normal business hours at the principal office of the Association. The Association shall retain these minutes for a period of not less than seven years.

3.5 Order of Business. The order of business at annual meetings of Members, and, as far as practical, at other meetings of Members, shall be:

- (a) Calling of the roll and certifying of proxies;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading or waiver of reading of minutes of previous meeting of Members;
- (d) Reports of officers;
- (e) Reports of committees;
- (f) Appointment by Chairman of inspectors of election;
- (g) Election of Directors;
- (h) Approval of Budget for coming year;
- (i) Unfinished business;
- (j) New business;
- (k) Adjournment.

4. BOARD OF DIRECTORS.

4.1 Composition of Board and Developer Control. The affairs of the Association shall be managed by a Board of Directors. The first Directors shall consist of three (3) persons who shall be appointed by the Developer. At the first annual meeting at which there are Class A Members present, one Director shall be elected from the Class A membership of the Association and two Directors shall be appointed by the Developer. In addition, so long as the Developer owns at least one (1) lot in Marietta Forrest, the Class B member (the Developer or its successor) shall be entitled to appoint a majority of the directors.

4.2 Election of Directors. Directors shall be elected or appointed in the following manner:

(a) Commencing with the election of the Board to succeed the first Board as designated in the Articles, Developer shall appoint that number, and the identity, of the members of the Board which it shall be entitled to appoint in accordance with the Articles and these By-Laws, and upon such appointment by Developer, by written instrument presented to the meeting at which such election is held, the persons so appointed by Developer shall be deemed and considered for all purposes Directors of the Association and shall thenceforth hold the offices and perform the duties of such Directors until their successors shall have been elected or appointed, as the case may be, and qualified in accordance with the provisions of these By-Laws.

(b) For so long as the Developer shall own at least one (1) lot in Marietta Forrest and, as a result, retain the right to appoint a majority of the Board of Directors, all members of the Board of Directors whom Developer shall not be entitled to appoint under these By-Laws shall be elected at large, by a plurality of the votes cast at the annual meeting of the general membership by the Class A Members, immediately following appointment of the members of the Board whom Developer shall be entitled to appoint.

(c) Vacancies on the Board may be filled, through the unexpired term thereof, by the remaining Directors except that, should any vacancy on the Board be created in a directorship previously filled by any person appointed by Developer, such vacancy shall be filled by Developer appointing by written instrument delivered to any officer of the Association, the successor Director, who shall fill the vacated directorship for the unexpired term thereof.

(d) In the election of Directors, there shall be apportionment to each Lot one (1) vote for each Director to be elected provided, however, that no Member may cast more than one vote for any person nominated as a Director, it being the intent hereof that voting for Directors shall be non-cumulative.

(e) Within sixty (60) days after Class A Members are entitled to elect a member or members of the Board of Directors of the Association, the Association shall call, in a manner as elsewhere provided in these By-Laws, and give not less than thirty (30) days nor more than sixty (60) days notice of a meeting of the Members for this purpose. Such meeting may be called and the notice given by any member if the Association fails to do so within the time prescribed herein. Election of such Directors shall be conducted in the manner provided in these By-Laws.

(f) Each Director shall serve for one year until the next annual meeting or such other time as his successor is elected.

(g) In the event that Developer selects any person or persons to serve on the Board, Developer shall have the absolute right at any time, in its sole discretion, to replace any such person or persons with another person or other persons to serve on the Board. Replacement of any person or persons designated by Developer to serve on any Board shall be made by written instrument delivered to any officer of the Association, which instrument shall specify the name or names of the person or persons designated as successor or successors to the persons so removed from the Board. The removal of any Director and designation of his successor shall be effective immediately upon delivery of such written instrument by Developer to any officer of the Association.

4.3 Organizational Board Meeting. The organizational meeting of a newly elected or designated Board shall be held within fifteen (15) days of their election or designation, at such time and place as shall be fixed at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary; provided, that a quorum shall be present.

4.4 Regular Board Meeting. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least seven (7) days prior to the day named for such meeting, unless notice is waived. Meetings of the Board of Directors shall be open to all Members. Notice of any meeting where assessments against Members are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

4.5 Special Meetings. Special meetings of the Board may be called by the President, and must be called by the Secretary at the written request of one-third of the Directors. Except in an emergency, not less than two (2) days notice of a special meeting shall be given to each Director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting. Notice of any meeting where assessments against Members are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

4.6 Board Minutes. Minutes of all meetings of the Board shall be kept in a businesslike manner and available for inspection by Members and Directors during normal business hours at the principal office of the Association. The Association shall retain these minutes for a period of not less than seven years.

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

4.8 Quorum. A quorum at meetings of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except as may be specifically otherwise provided in the Articles or these By-Laws. If any meeting of the Board cannot be held because a quorum is not present, or because the greater percentage of the Directors required to constitute a quorum for particular purposes is not present, wherever the latter percentage of attendance may be required as set forth in the Articles or these By-Laws, the Directors who are present may adjourn the meeting from time to time until a quorum, or the required percentage of attendance, if greater than a quorum is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

4.9 Action Without a Meeting. To the extent now or from time to time hereafter permitted by the laws of Florida, the Board may take any action which they might take at a meeting of the Board without a meeting; provided, that a record of all such actions so taken, signed by each Director, shall be filed and retained in the minute book of the Association.

4.10 Removal. Directors may be removed from office with or without cause by the vote or written agreement of a majority of all Members, provided, however, that only the Developer can remove the member of the Board who was appointed by the Developer.

4.11 Presiding Officer. The presiding officer of meetings of the Board shall be the Chairman of the Board, if such officer has been elected, or, if not, the President of the Association. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

4.12 Powers and Duties. All of the powers and duties of the Association shall be exercised by the Board, including those existing under the laws of Florida, the Articles and these By-Laws. Such powers and duties shall be exercised in accordance with the Articles

and these By-Laws, and shall include, without limitation, the right, power and authority to:

1. Adopt, for, and in advance of, each fiscal year, a budget necessary to carry out the purposes of the Association as set out herein and in the Declaration.

2. Levy and collect assessments against Members of the Association to defray the expenses of the Association, including the right to enforce any lien rights granted to the Association to secure the payment of said assessments.

3. To contract with any third party to carry out the purposes and duties of the Association as set out herein and in the Declaration.

4. Enforce the provisions of these Articles of Incorporation; the provisions of the Declaration applicable to Members of the Association and their Lots; the Association By-laws; and all covenants, restrictions, rules and regulations governing use of the Lots which may now or hereafter be established.

5. OFFICERS.

5.1 Generally. The Board shall elect a President and may elect a Secretary, Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall deem advisable from time to time. The President shall be elected from the membership of the Board, but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible. The Board may from time to time elect such other officers, and designate their powers and duties, as the Board may deem necessary to properly manage the affairs of the Association. Officers may be removed from office by the Board.

5.2 President. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of President of a corporation not for profit, including but not limited to the power to appoint committees from among the Members from time to time, as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association. He shall have such additional powers as the Board may designate.

5.3 Vice-President. The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board.

5.4 Secretary. The Secretary shall keep the minutes of all proceedings of the Board and the Members. He shall attend to the affairs of the Association. He shall have such additional powers as the Board may designate.

5.5 Treasurer. The Treasurer shall have custody of all of the property of the Association including funds, securities and evidences of indebtedness. He shall keep the assessment roll and accounts of the Members; he shall keep the books of the Association in accordance with good accounting practices, and he shall perform all other duties incident to the office of Treasurer.

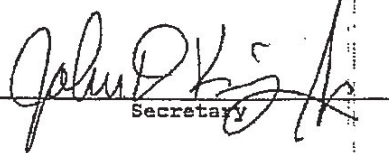
5.6 Compensation. No compensation shall be paid to any officer of the Association except with the approval of the Developer as long as the Developer owns at least one lot, and thereafter with the approval of a majority of the membership, reflected by a vote taken at a duly constituted membership meeting. Nothing herein shall be construed so as to prohibit or prevent the Board of Directors from employing any director or officer as an employee of the Association at such compensation as the Board shall determine, nor

shall anything herein be construed so as to preclude the Board from contracting with a director or officer or with any corporation in which a director or officer of the Association may be stockholder, officer, director or employee, to carry out the Association's duties and responsibilities for such compensation as shall be mutually agreed between the Board and such officer, director or corporation, for it is expressly contemplated that the first Board of Directors may enter into such contracts with persons who are initial officers or directors of the Association, or with corporations having officers, directors or employees who are also members of the first Board of Directors of the Association.

6. PARLIAMENTARY RULES. Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Articles of Incorporation or these By-Laws.

7. AMENDMENTS TO BY-LAWS. These By-Laws may be altered or amended as provided in Article X of the Articles.

The foregoing were adopted as the By-Laws of MARIETTA FORREST ASSOCIATION, INC., a corporation not for profit under the laws of the State of Florida, at the first meeting of the Board of Directors on the 30th day of November, 1988.


Secretary

APPROVED

President