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AMENDED AND RESTATED
DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS
OF
SUTTON PLACE

**SUBSTANTIAL REWORDING OF COMMUNITY DECLARATION-
SEE CURRENT DECLARATION FOR PRESENT TEXT**

THIS AMENDED AND RESTATED DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS (this "Declaration") is made by **D.R. HORTON, INC.**, a Delaware corporation, (the "**Declarant**"), whose mailing address is 400 Schubert Drive, Pensacola, FL 32504, to amend, restate and replace it its entirety the Declaration of Covenants, Conditions and Restrictions for Sutton Place recorded in Book 8915, Page 492 in the Official Records Escambia County, Florida (the "**Original Declaration**").

WITNESSETH:

WHEREAS, Sutton Place Developers, Inc., a Florida corporation ("SPD"), was the owner in fee simple of the property described in **Exhibit "A"** attached hereto and made a part hereof (the "**Property**") at the time of the recording of the Original Declaration;

WHEREAS, SPD caused that certain Original Declaration to be recorded in Book 8915, Page 492 in the Official Records of Escambia County, Florida;

WHEREAS, SPD assigned its Declarant rights to 68V Sutton Place (FL) 2021, LLC, a Florida limited liability company, ("68V Sutton"), pursuant to that certain Assignment of Declarant Rights recorded in Book 8928, Page 1202 in the Official Records of Escambia County, Florida;

WHEREAS, 68V Sutton subsequently assigned its declarant rights to D.R. Horton, Inc., pursuant to that certain Assignment of Declarant Rights recorded in Book 8929, Page 650 in the Official Records of Escambia County, Florida;

WHEREAS, pursuant to the Declaration, Declarant may amend the Declaration without the joinder of any party, as long as said amendment is made in good faith and is not arbitrary and

capricious, does not destroy the general plan of the development, does not prejudice the rights of the Members to enjoy the benefits of Common Property, does not materially shift the economic burdens from the Declarant to the Members and no Owner's right to the use and enjoyment of the Owner's Lot is materially altered; and

NOW, THEREFORE, D.R. HORTON, INC., as Declarant pursuant to that certain Assignment of Declarant Rights herein described, hereby declares, that subject to the provisions hereof, all of the Lots (hereinafter defined) shall be held, sold and conveyed by the Owners and the Common Area (hereinafter defined) shall be held by the Association subject to the restrictions, covenants and conditions contained herein for the purposes of protecting the value and desirability of, and which shall run with, the Community Property (hereinafter defined) and be binding on all parties having any right, title or interest in the Community Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner of any portion thereof.

ARTICLE ONE GENERAL PROVISIONS

1.01 Restrictive Covenants and Easements Running with the Land. The use of the Community Property shall be in accordance with the provisions and restrictions of this Declaration, all of which are to be construed as restrictive covenants and/or easements, as applicable, running with the land and with the title to each and every Lot and shall be binding upon all Owners and other persons having interests therein and upon their heirs, personal representatives, successors, grantees and assigns.

1.02 Terminology. Whenever the context requires, words used in the singular shall be construed to mean or to include the plural and vice versa, and pronouns of any gender shall be deemed to include and to designate the masculine, feminine or neuter gender.

1.03 Definitions. The following terms, when capitalized herein, shall have the meaning set forth in this Section 1.03:

- (a) "Act" means Chapter 720, Florida Statutes, as amended from time to time.
- (b) "Additional Property" shall have the meaning given such term in Section 10.02 hereof.
- (c) "Architectural Review Committee" or "ARC" means the Architectural Review Committee as established by the Board of Directors in accordance with the Bylaws.
- (d) "Articles of Incorporation" means the Articles of Incorporation of Sutton Place Property Owners' Association, Inc., a Florida non-profit corporation, as filed in the records of the Florida Department of State, Division of Corporations, as the same may hereafter be amended, altered or repealed from time to time. A copy of the Articles of Incorporation is attached hereto as **Exhibit "B"**.

- (e) "Association" means Sutton Place Property Owners' Association, Inc., a Florida not for profit corporation.
- (f) "Board" or "Board of Directors" means the Board of Directors of the Association, established in accordance with the Articles of Incorporation and Bylaws of the Association.
- (g) "Builder" means any commercial home builder or contractor who owns more than one Lot for the purpose of constructing Homes on such Lots for sale to third party purchasers, which Builders shall specifically include D.R. Horton, Inc., a Delaware corporation.
- (h) "Bylaws" means the Amended and Restated Bylaws of the Association, as the same may hereafter be amended, altered or repealed from time to time. A copy of the Bylaws is attached hereto as **Exhibit "C"**.
- (i) "Common Area" means any real property within the Subdivision which is owned or leased by the Association or dedicated for use or maintenance by the Association or its Members, regardless of whether title has been conveyed to the Association.
- (j) "Community Property" means all of the Lots and the Common Area, collectively.
- (k) "County" means Escambia County, Florida.
- (l) "Declarant" means D.R. Horton, Inc., a Delaware corporation, its successors and assigns which expressly are assigned and who assume the Declarant's rights as "Declarant" hereunder.
- (m) "Governing Documents" means the Declaration, Articles of Incorporation, Bylaws and other documents governing the administration and operation of the Community.
- (n) "House" or "Home" means any single-family dwelling unit situated upon a Lot and for which a certificate of occupancy has been issued.
- (o) "Lot" means each and every numbered lot shown on the Plat of Subdivision.
- (p) "Member" means every person or entity who is a member of the Association, in accordance with Article Three herein.
- (q) "Mortgagee" means a holder or beneficiary of any mortgage, deed with vendor's lien reserved, or any other form of instrument used for the purpose of encumbering or conveying real property as security for payment or satisfaction of any obligation.
- (r) "NWFWM" or "WMD" means Northwest Florida Water Management District.

- (s) “Operating Expense” shall mean and refer to the actual and estimated expense of operating the Association, including but not limited to, salaries and management fees, professional fees, service, and material costs, telecommunications service costs, costs of supplies and equipment, Association-sponsored social events, and any and all costs relating to the discharge of the Association’s obligations hereunder; and further in meeting the costs to be incurred by the Association in performing its contractual or other duties and in exercising its prerogatives, including without limitation costs incurred for the operation, maintenance, repair, replacement, insurance and improvement of the Common Areas. Operating Expenses shall not include reserves.
- (t) “Owner” means the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding mortgagees, lien holders, lessees, tenants, and those having such interests solely as security for the performance of an obligation.
- (u) “Permit” shall mean the Environmental Resource Permit or other permits issued for Stormwater Management System (hereinafter defined) by the NFWFMD, a copy of which is attached hereto as **Exhibit “D”**. Copies of the Permit and any future permit actions of the NFWFMD shall be maintained by the Association for the benefit of the Association and by the registered agent of the Association.
- (v) “Person” means any individual, corporation, trust, partnership, joint venture, limited liability company or other entity.
- (w) “Plat of Subdivision” has the meaning ascribed to such term hereinabove and shall also include any additional plat or plats or real property that are hereafter recorded where such real property is annexed to this Declaration in accordance with the terms of Section 10.02 hereof.
- (x) “Rules” are collectively the rules and regulations which the Board of Directors of the Association may promulgate or impose and thereafter modify, alter, amend, rescind and augment any of the same with respect to the use, operation, and enjoyment of the Community Property and any improvements located thereon. For any Rules adopted and as amended from time to time, the Association shall have the right to take enforcement actions, including but not limited to the imposition of fines, against any Owner or tenant to compel compliance with the Rules.
- (y) “Stormwater Management System” shall mean a surface water management system that is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system.

- (z) "Subdivision" means Sutton Place, a subdivision as shown on the Plat of Subdivision, plus any Additional Property made subject to this Declaration in accordance with the terms of Section 10.02.
- (aa) "Turnover" means the earlier to occur of (i) Declarant relinquishing control of the Association in a written instrument recorded in the real property records of Escambia County, Florida, (ii) Three months after ninety percent (90%) of the Lots in all phases that will ultimately be operated by the Association have been conveyed to Lot Owners (other than Builders); provided, however, this event shall be deemed not to have occurred based on Lots conveyed to a person or entity who becomes a successor Declarant by assignment, or (iii) as otherwise required by the Act.

1.04 Purposes. It is intended that the Subdivision development will be a residential community of high esteem and quality homes.

ARTICLE TWO COMMON AREA

2.01 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, the Articles of Incorporation and the Bylaws, shall be responsible for the exclusive maintenance, management, and control of the Common Area and all improvements thereon, and shall keep the Common Area in good, clean, attractive, and sanitary condition, order, and repair pursuant to the terms and conditions of this Declaration. The Association has the right to restrict the use and govern the operation of the Common Area by promulgating reasonable Rules, including with respect to any Common Area, the right to charge reasonable fees for the use thereof by the Owners as the Association deems necessary or appropriate. Rules may be established by the Association to regulate the use of the Common Area. The necessary work or maintenance, repair and replacement of the Common Area and the making of any additions or improvements thereto shall be carried out as provided in this Declaration, the Articles of Incorporation and the Bylaws.

2.02 Right of Enjoyment. Subject to this Declaration and any Rules promulgated by the Board of Directors, as amended from time to time, every Member shall have a right and easement of enjoyment of the Common Area, and such easement shall be appurtenant to and pass with the title to each Lot.

2.03 Restrictive Covenant on Common Area. A restrictive covenant is hereby imposed on the Common Area such that no part of the Common Area may be developed for residential or commercial purposes; provided, however, that Declarant and/or the Association shall have the right, but not the obligation, to construct and install amenities and improvements on the Common Area that are for the use and enjoyment of the Members, subject to the terms and conditions hereof and any Rules adopted by the Board. This restrictive covenant shall run with each Lot and shall exist for the benefit of the Owners and be binding upon, their successors and assigns. Notwithstanding the foregoing, prior to Turnover, Declarant may withdraw from the terms and conditions of this Declaration portions of the Community Property then owned by Declarant, or convert Lots owned by Declarant to Common Area and Common Area owned by Declarant to Lots.

2.04 Withdrawal of Property. Declarant shall be entitled to withdraw portions of the Community Property owned by Declarant from the terms and conditions of this Declaration, subject to the terms and conditions of this Section. For purposes of this Declaration, the portion of the Property withdrawn from the terms hereof shall be referred to as the "Withdrawn Property." In order to withdraw such portion of the Property from the terms of this Declaration, Declarant shall record in the Public Records of the County an instrument executed with the formalities of a Deed, which instrument shall make reference to this Declaration, state that the purpose of the instrument is to withdraw the Withdrawn Property from the terms and conditions of this Declaration, and contain a legal description of the Withdrawn Property. Declarant shall have the right to withdraw portions of the Land from the terms and conditions of this Declaration without the joinder, ratification or approval of the Association, any Owner, or any lienholder, provided that Declarant is the fee simple owner of the Withdrawn Property, and provided that the withdrawal of the Withdrawn Property shall not result in a material change to the scheme of development of the Subdivision. Upon the withdrawal of the Withdrawn Property from the terms and conditions of this Declaration, the Withdrawn Property shall no longer be subject to the terms of this Declaration, including all exhibits hereto, or any other covenants, restrictions and/or regulations provided herein or adopted hereunder, except for those easements, rights-of-way, or other portions hereof which, by their terms, specifically survive the termination of this Declaration, which shall include the withdrawal of such lands from the terms and conditions of this Declaration. Notwithstanding the provisions of this section, Lots which are the subject of a Lot Purchase Agreement between the Declarant and a Builder or third party may not be withdrawn from the terms and conditions of the Declaration, unless the Lot Purchase Agreement has been terminated or unless the Builder or third party purchaser consents in writing to the withdrawal of the Lot(s).

2.05 Lots Subject to Covenants, Restrictions, Limitations and Term. Each Lot that shall be conveyed, held, devised, leased, or demised at any time hereafter shall be subject to all the terms, conditions, covenants, restrictions, and limitations herein contained, and the obligation to observe and perform the same whether or not it be so expressed in the deed or other instrument of conveyance of the Lot or real property, and such shall run with the Lot or real property and be appurtenant thereto as if fully set out in such deed or instrument of conveyance, subject to the terms and conditions hereof.

2.06 Easements.

- (a) Intentionally Deleted.
- (b) Easements and Buffer Strips. All easements and buffer strips shown on the Plat of Subdivision, if any, are hereby adopted as part of this Declaration and all Lots in the Subdivision shall be subject to such easements and buffer strips.
- (c) Structures. No dwelling unit, house, Home, and/or other structure of any kind shall be built, erected, or maintained upon any easement, and said easements shall at all times be open and accessible to public and quasi-public utility corporations, and to other persons erecting, constructing, or servicing such utilities, and to the Association, its successors or assigns, all of whom shall have the right of ingress

and egress thereto and therefrom, and the right and privilege of doing whatever may be necessary in, under, and upon said locations for the carrying out of any of the purposes for which said easements are hereby reserved and may hereafter be reserved.

(d) Overhead Wires. No Lot shall be served with any overhead electrical or communications service, and no Owner shall erect power poles for such service; provided, however, that nothing herein shall be construed to prohibit overhead street lighting or ornamental yard lighting provided that such lighting is constructed in accordance with the terms and conditions hereof and any Rules of the Association.

2.07 Control of Common Area. The Association may, upon approval by the Members, sell, subdivide, lease, mortgage, grant easements over or otherwise encumber the Common Area, or exchange all or any portion of the Common Area for Lots or other real property, or purchase or acquire any additional real property and dedicate the same as Common Area subject to the terms of this Declaration.

2.08 Condemnation. In the event of a taking by eminent domain of any portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements so taken on the remaining Common Area, if reasonably possible, unless within one hundred and twenty days (120) days after such taking, an alternative plan is approved by at least seventy-five percent (75%) of the voting interests of the Members. The provisions of this Declaration applicable to replacement or restoration of damaged improvements on the Common Area shall also apply to and govern the actions to be taken in the event that the improvements are not restored or replaced after a condemnation.

2.09 Liability. Owners, occupants and their guests shall use and enjoy the Common Area at their own risk and shall assume sole responsibility for their personal belongings used or stored there. The Association, the Declarant and their respective officers, directors, employees, representatives and agents shall not be held liable for personal injury to any person, nor for loss or damage to personal belongings used or stored on any of the Common Area. The Association shall not be liable for injury or damage to any person or property (a) caused by the elements or by an Owner or any other person, (b) resulting from any rain or other surface water which may leak or flow from any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, or (c) caused by any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, utility line, facility or from any portion of the Common Area, the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor shall the Association be liable to any Owner or occupant for loss or damage, by theft or otherwise, of any property of such Owner or occupant.

ARTICLE THREE ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

3.01 The Association. The operation and administration of the Common Area shall be handled by the Association. The Association shall have those powers and authorities as set forth in the Governing Documents and pursuant to the Act, including but not limited to the authority and power to maintain a class action and to settle a cause of action on behalf of Owners with reference to the Common Area and with reference to any and all other matters in which all of the Owners have a common interest. The Association shall have all the powers and duties set forth in the Act, Chapter 617, Florida Statutes (the Florida Not-for-profit Corporation Act), the Articles of Incorporation and the Bylaws. The Association shall have a reasonable right of entry upon any Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Common Area and further, shall have the right to grant permits, licenses, and easements over the Common Area for utilities and other purposes reasonably necessary or useful for the proper maintenance or operation of the Common Area. The Board of Directors shall have the authority and duty to levy and enforce the collection of assessments for common expenses and is further authorized to provide adequate remedies for failure to pay such assessments.

3.02 Membership. Each Owner shall be a Member, subject to the terms and conditions of the Articles of Incorporation and the Bylaws.

3.03 Voting. Voting by Owners shall be in accordance with the Bylaws.

3.04 Assignment. The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance of said Owner's Lot.

ARTICLE FOUR COVENANT FOR MAINTENANCE ASSESSMENTS

4.01 Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot, hereby covenants, and each Owner of any Lot, excepting Declarant and Builders, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance (including any purchaser at a judicial sale), is deemed to covenant, which covenant shall run with the land and be binding on every such Owner, and agrees to pay to the Association: (1) any regular assessments or charges for the payment of operating expenses of the Association (including payment of property taxes which may be assessed against Common Area or any personal property which may in the future be owned by the Association) ("**Regular Assessments**" or "**Annual Assessments**"); and (2) any special assessments for improvements, or to fund any deficits between the amount collected for regular assessments in accordance with the annual budget and the amount determined necessary by the Association for the proper management and maintenance of the Common Area, together with other costs and/or expenses of the Association or property of the Association ("**Special Assessments**"); and (3) any individual assessments or charges incurred by the Association on behalf of one or more Lots but not all Lots ("**Individual Assessments**"). All such Regular Assessments, Special Assessments and Individual Assessments,

collectively referred to as Assessments, shall be fixed, established and collected from time to time as hereinafter provided. The Assessments, together with such interest thereon and costs of collection thereof, including attorney's fees, as hereinafter provided and any applicable late fee imposed by the Board of Directors of the Association, shall be a charge on the Lot and shall be a *continuing lien* upon any Lot against which each such assessment is made. Any payment received and accepted by the Association shall be applied first to any interest accrued, then to any administrative late fee, then to any costs and reasonable attorney's fees, and then to the delinquent assessments. Each such assessment, together with interest, costs (including applicable late fees), and reasonable attorneys' fees for its collection, including attorneys' fees involved at all appellate levels and whether or not suit is instituted, shall also be the personal obligation of the person or entity who was the Owner of the Lot at the time when the assessment became due. Each Owner shall be jointly and severally liable with the previous Owner for all Assessments due to the Association prior to the transfer of title; provided, however, that "previous Owner" shall not include an association that acquires title to a delinquent property through foreclosure or by deed in lieu of foreclosure, and the liability of a first mortgagee, or its successor or assignee as a subsequent holder of the first mortgage who acquires title to a parcel by foreclosure or by deed in lieu of foreclosure for the unpaid assessments that became due before the mortgagee's acquisition of title is limited to the amounts set forth in Section 720.3085 of the Act. This liability is without prejudice to any right the present Owner may have to recover any amounts paid by the present Owner from the previous Owner.

4.02 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to provide for the operations of the Association and for the management, care and maintenance of the Common Area and any improvements constructed thereon, including provision for appropriate insurance against casualty and liability. Assessments may be levied for, but shall not be limited to, the maintenance of the Common Area and any improvements or equipment maintained by the Association; the payment of taxes, if any, for the Common Area; insurance for the Common Area and as required under the HOA Act or pursuant to the Governing Documents for the Association; payment for the improvement and maintenance of the Common Area and Townhome lawns; and services and facilities related to the administration and operations of the association and the use and enjoyment of the Common Area. Special Assessments shall be used to fund capital improvements, deficits in the collection of Regular Assessments to cover Operating Expenses of the Association, and other purposes deemed necessary by a majority vote of Owners of the Association as set forth in Subsection 4.05 hereof. Individual Assessments shall be for the costs incurred by the Association which by nature are applicable only to one or more Lots, but less than all Lots. By way of example and not limitation, in the event an Owner fails to maintain their Lot in a manner required by the Governing Documents, the Association shall have the right, through its agents and employees, to enter upon the Lot and to repair, restore, and maintain the Lot and/or Home as required by the Governing Documents. The costs of any such repair, restoration and/or maintenance, plus the reasonable administrative expenses of the Association and any costs incurred in bringing a Lot and/or Home into compliance with the Governing Documents, shall be an Individual Assessment charged against the Lot.

4.03 Uniform Rate of Assessment. Unless otherwise provided for herein, both Annual and Special Assessments must be fixed at a uniform rate for all Lots with a Home and may be collected on an annual, quarterly or monthly basis or at any other interval as determined by the

Board of Directors. Payments of all Assessments will be made directly to the Association or its designated management company and in no instance shall any mortgagees have the obligation to collect Assessments.

4.04 Annual Assessments. To provide the total sum necessary for the insurance purchased by the Association hereunder, the maintenance, repair and replacement (as applicable) of any improvements located on the Common Areas, and any and all other expenses of the Association, each Member for each Lot owned shall pay a portion of the total amount necessary for such purposes to the Association, taking into account current maintenance costs and future needs of the Association. Each Owner acknowledges the Association may be responsible for the repair and maintenance of capital improvements that may result in a Special Assessment due to reserves not being collected. Reserve accounts are not initially provided for herein by the Declarant; however, the Members of the Association may elect following Turnover to collect for reserves upon the affirmative approval of a majority of the total voting interests of the Association obtained by a vote of the Members at a duly called meeting of the membership. The approval action of the membership must state that reserve accounts shall be provided for in the budget and must designate the components for which the reserve accounts are to be established. If approved by the membership, the Board of Directors shall include a reserve account or accounts in the budget in the next fiscal year following the approval and each year thereafter. Once reserves are established as provided in this subsection, the reserve accounts must be maintained with the collection of the Annual Assessments or have their funding waived or reduced in the manner provided by the HOA Act. Notwithstanding the foregoing, Builders are exempt from reserve funding obligations for each Lot owned by the Builder during the period of time prior to sale of the Lot to a third-party who is not a Builder or Declarant, and during the period prior to Turnover, Declarant is exempt from paying contribution to or deficit funding reserves for the Lots Declarant owns.

4.05 Special Assessments. In addition to the annual assessments authorized above, the Board of Directors may levy, in any annual assessment period, a special assessment applicable to that calendar year. Any such special assessment may only be levied for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area and any entrance wall or signage, including fixtures and personal property related thereto, and to cover unbudgeted expenses, expenses in excess of those budgeted, and other Operating Expenses of the Association. Notwithstanding the foregoing, before Turnover, the Board of Directors may not levy a special assessment unless a majority of Members, other than the Declarant, has approved the special assessment at a duly called special meeting and in accordance with the requirements of the Act.

4.06 Individual Assessment Against a Particular Owner of Lot.

(a) Failure to Maintain or Damages Caused. In the event an Owner of any Lot in the Property shall fail to maintain the premises and the improvements situated thereon in accordance with the terms and conditions of the Governing Documents and any promulgated Rules in a manner satisfactory to the Board of Directors to a minimum standard of consistency with the general appearance of the Community Property as initially constructed and improved by the Declarant (taking into account normal wear and tear and

exposure to normal exterior conditions, but not to the point of unsightliness), the Association, after approval by a majority of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot, and the exterior of the buildings and any other improvements erected thereon. The costs of such exterior maintenance performed on behalf of the Lot Owner by the Association may be assessed to the Lot as an Individual Assessment; and said Individual Assessment shall be enforced in the same manner as other Assessments. In addition, in the event any Owner, its guests, tenants or invitees cause any damage to real or personal property owned or to be maintained by the Association, including without limitation the Common Area and any structure or other improvements thereon, recreation facilities, landscaping, irrigation, sidewalks, easement areas or portions of the Surface Water Management System, such Owner shall be responsible for the cost for any repairs and replacements required to correct such damage and the cost thereof may be assessed to the Lot Owner as an Individual Assessment.

4.07 Date of Commencement of Assessments and Due Dates. The Assessments provided for herein shall only be assessed against Lots upon which a Home has been constructed, and will commence as to a particular Lot upon constructed conveyance of the Lot to any Owner who is not the Declarant or a Builder. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days prior to each annual assessment period, and in accordance with the requirements of the Act, the Board of Directors shall prepare and adopt a budget for the estimated Operating Expenses of the Association during the coming assessment period, inclusive of reserves if established by owner vote.. Except as otherwise provided herein, each Owner shall pay an equal amount of the annual assessment. The aggregate amount of the assessments shall be set at a level which is reasonably expected to produce income for the Association equal to the total budgeted Operating Expenses, including reserves. The Board of Directors shall send or make available a copy of the budget and notice the amount of the annual assessments for the following year to each Owner in accordance with the requirements of the Act, as may be amended from time to time. If the Board of Directors fails for any reason to determine the budget for any year, then until such time as the budget is determined, the budget in effect for the immediately preceding year shall continue for the current year. Any revised budget prepared and adopted by the Board of Directors shall become effective in accordance with the requirements of the Act, as may be amended from time to time. The Board of Directors shall determine if annual and special assessments will be collected annually, quarterly or at some other interval and shall set due dates for assessment payments.

4.08 Effect of Nonpayment of Assessments: Remedies of the Association. Any Assessments which are not paid when due shall be delinquent. If the Assessment is not paid within ten (10) days (or such other period of time established by the Board of Directors) after the due date, an administrative late fee of the greater of Twenty-Five and no/100 Dollars (\$25.00) or 5% of the amount of the installment that is past due, together with interest in an amount equal to the maximum rate per annum allowable by law beginning from the due date until paid in full may be levied. The Association, acting through its Board of Directors, may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot to which the Assessment is levied, and interest, costs and reasonable attorneys' fees, including at all appellate levels and whether or not suit is instituted, in collection or enforcement shall be added to the

amount of such Assessment. Additionally, the Board of Directors of the Association may at its discretion accelerate the Assessments then due from a delinquent Owner for the next twelve (12) months. The Association may also notify any mortgagees or lenders of Owner, any co-borrowers and/or guarantor(s) without recourse to Declarant and/or the Association of delinquencies in the payment of Assessments. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his or her Lot. All payments on accounts shall be first applied to fines levied in accordance with the terms of the Declaration, interest accrued by the Association, then to any administrative late fees, then to collection costs and attorney fees, and then to the delinquent Assessments. The allocation of payments described herein shall apply notwithstanding any restrictive endorsement, designation or instruction placed on or accompanying a payment. Additionally, if a Home is occupied by a Lessee and the Owner is delinquent in the payment of Assessments, the Association may demand from the Lessee payment to the Association of all monetary obligations, including without limitation, Assessments due from the Owner to the Association. So long as the Owner remains delinquent, future rent payments due to the Owner may be collected by the Association and shall be credited to the monetary obligations of the Owner to the Association. If within fourteen (14) days from written demand of the Association, the Lessee provides the Association with written evidence of making prepaid rent payments, the Lessee shall receive credit for the prepaid rent for the applicable period of such prepaid rent.

4.09 Subordination of the Lien to Mortgages. The priority of the Association's lien and the obligation for payment of past due assessments or other sums due in relation to first mortgagees who obtain title as a result of foreclosure or deed in lieu of foreclosure shall be determined by the Act, and specifically, §720.3085(2) of the Act, as amended from time to time. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof or relieve the prior Owner from any personal liability for any unpaid assessments occurring prior to said sale or transfer.

4.10 Estoppel Letter. The Association shall, upon request from an Owner or on behalf of an Owner, provide estoppel certificates in accordance with the requirements of the Act.

4.11 Declarant Exemption; Assessments during Declarant Control. Notwithstanding any provision that may be contained to the contrary in this Declaration, for as long as Declarant is in control of the Association, Declarant shall not be liable for Assessments against Lots owned by the Declarant, provided that the Declarant funds any deficit in Operating Expenses, exclusive of reserves, cost of capital improvements, and non-budgeted repairs or replacement, as specified in Chapter 720.308(1)(b), Florida Statutes. For the purposes hereof, a deficit shall be computed by subtraction from said Operating Expenses (exclusive of the items described in the foregoing sentence) all assessments, Working Fund Contributions (defined hereafter), income and other sums and income received or receivable by the Association. The deficit, if any, to be paid by Declarant pursuant to this Section shall be determined by looking at the period of deficit funding, without regard to quarterly, annual or any other accounting or fiscal periods and without regard to intraperiod allocations. The Declarant may at any time commence to pay Assessments to the Lots that it owns and thereby automatically terminate its obligations to fund a deficit in the operating expenses of the Association or any time or from time to time elect again to fund deficits as aforesaid. When all Lots within the Property are sold and conveyed to purchasers, the Declarant

shall have no further liability of any kind to the Association for the payment of Assessments or deficits other than those that arose prior to such time. Should Declarant, in its sole discretion, elect to fund cash shortfalls caused by delinquencies or other matters which would not otherwise require deficit funds from the Declarant, or make excess contributions over the totality of the deficit funding period, such funds shall be considered a loan to the Association to be paid back to the Declarant by the Association. The Declarant's rights under this Subsection 4.10 shall not be construed as a guarantee of Assessments under Section 720.308(2), Florida Statutes.

4.12 Working Fund Contributions

(a) **On Sale by Declarant.** In addition to annual and special assessments levied hereunder, the first Owner acquiring title to a Lot that has been improved with a House who will occupy (or lease to an occupant) the House and all subsequent purchasers thereof shall pay to the Association at the closing of such Lot a contribution in an amount equal to one-fourth (1/4) of the annual assessments for Operating Expenses then being levied by the Association (a "Working Fund Contribution"). The Working Fund Contribution shall be deemed ordinary income, may be used by the Association for Operating Expenses or other purposes and need not be separated from or held or applied differently than Annual Assessments. No refund of a Working Fund Contribution will be made on re-sale. No Working Fund Contribution shall be due from a Builder when a Builder acquires a Lot for the purpose of constructing a Home thereon.

(b) **On Re-Sale.** At the time of each closing of a Home pursuant to a sale by an Owner other than Declarant or a Builder, each purchaser shall pay to the Association an amount equal to one-fourth (1/4) of the annual assessments for Operating Expenses then being levied by the Association at the time of the conveyance as a Working Fund Contribution. These monies shall be the Association's property and shall be held by the Association through its Board of Directors, pursuant to the powers described in the Articles and Bylaws. The Working Fund Contribution shall be deemed ordinary association income, may be used for Operating Expenses, and need not be separated from or held or applied differently than assessments. No refund of a Working Fund Contribution will be made on further re-sales.

4.13 Fines. The Association may levy reasonable fines against any Owner for violations of the provisions of this Declaration, the Articles, the Bylaws, or the Rules of the Association. A fine may not exceed \$100.00 per violation of any Owner or Owner's tenant, guest, or invitee for failure of the Owner of the Lot or its occupant, licensee, or invitee to comply with any provision of the Declaration, the Articles, the Bylaws, or the reasonable Rules of the Association unless otherwise provided herein. A fine may be levied by the Board of Directors for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed \$1,000.00 in the aggregate unless otherwise provided herein. A fine of less than \$1,000.00 may not become a lien against a Lot. In any action to recover a fine, the prevailing party is entitled to reasonable attorneys' fees and costs from the nonprevailing party as determined by the court.

4.14 Surface Water Management System. The Association will be responsible for assessing and collecting fees for the operation, maintenance, and, if necessary, replacement of the Surface Water Management System owned and operated by the Association. Such fees shall be assessed and collected through Assessments. In the event the Subdivision contains on-site wetland

mitigation requiring monitoring and maintenance, the Association shall budget and collect sufficient funds for the monitoring and maintenance of the mitigation areas in accordance with the Permit.

ARTICLE FIVE MAINTENANCE AND REPAIR

5.01 Maintenance. The Association shall maintain the Common Area. Portions of the Community Property owned or dedicated to the CDD on the Plat shall be maintained by the CDD. In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or without the Subdivision and to enter into easement and covenant to share costs agreements regarding such property where the Board has determined that such action would benefit the Owners. Each Owner shall maintain his or her respective Lot and shall also maintain and repair, at such Owner's sole cost and expense, said Owner's House, patio, lawn, and yard area, keeping the same in good condition and making all structural repairs and maintenance, external and internal, as may be required from time to time, including, but not limited to maintenance and repairs of any enclosed patio area, screens and screen doors, exterior door and window fixtures, glass, and other hardware. Each Owner shall also be responsible for the maintenance and repair of any fence or fences erected on such Owner's Lot and gates appurtenant thereto.

5.02 Failure to Maintain. In the event an Owner shall fail to maintain and repair his Lot and the improvements situated thereon, as provided for herein and provided that the failure to so maintain shall cause damage or injury to the adjoining Lot or to common structural elements which affect an adjoining Lot, the Association, after approval by a majority vote of the Board of Directors, shall have the right, but not the obligation, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot and the House and any other improvements erected thereon. The cost of the same shall be an Individual Assessment to which such Lot is subject. Alternatively, the Association, in the discretion of the Board, may seek equitable or other judicial relief to address the Owner's failure to maintain or repair.

5.03 Damage to Common Area/CDD Property. Notwithstanding anything contained in this Article Five to the contrary, each Owner shall be personally responsible and personally liable for any damage to the Common Area and CDD Property, or any portion thereof, caused by the Owner and/or the Owner's family members, guests, invitees, lessees or licensees as a consequence of the negligence, recklessness or willful misconduct of such person. The cost of repair for any damage so caused by the Owner, the Owner's family members, guests, invitees, lessees or licensees shall be an Individual Assessment against the Owner responsible therefor and the Lot of such Owner.

ARTICLE SIX ARCHITECTURAL CONTROL

6.01 Submission of Plans and Specifications. No House, building, fence, wall, or other structure or improvement shall be constructed, erected, or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications of the

same shall have been submitted by an Owner to and approved in writing as in conformity and harmony with this Declaration by the Architectural Review Committee. Two (2) copies of the building or construction plans and specifications (collectively, the "Plans") shall be submitted to the ARC. Prior to commencement of any construction activities on a Lot, an Owner's Plans and Specifications must be approved by the ARC as to conformity and harmony with surrounding structures and improvements (or the surrounding area contemplated by Declarant, if prior to Turnover) and is otherwise aesthetically desirable. The ARC may, from time to time, establish additional written design guidelines for the Subdivision, and a copy of any such guidelines then in effect shall be made available to any Member requesting a copy of same from the Association. In accordance with the Bylaws, the Declarant may serve in the place of the ARC.

6.02 Approval or Disapproval. The ARC shall indicate its approval or disapproval of such Plans and Specifications by delivering, in writing, notice of such approval or disapproval to the requesting Owner. In the event the ARC fails to approve or disapprove an Owner's complete Plans and Specifications, including any additional documentation or information requested, within sixty (60) days after said Plans and Specifications have been submitted to it, approval shall be deemed automatically given. No ARC decision shall be required on the submission of incomplete Plans and Specifications.

6.03 Right of Inspection. The ARC shall have the right, but not the obligation, to enter and inspect the Owner's Lot and improvements during construction and prior to occupancy to ensure construction in accordance with the construction plans submitted and approved by the ARC. Failure of an Owner to comply with the provisions of this Section 6.03, or failure of an Owner to carry out construction in accordance with the provisions of this Article, shall subject such Owner to such remedies as might be available at law or in equity (including, but not limited to, specific performance and injunction, payment of the prosecuting parties' reasonable legal fees and expenses).

6.04 Limited Review. The scope of review and approval by the ARC does not include any responsibility for structural soundness, suitability of construction or materials, compliance with building or zoning codes or standards, this Declaration, or any other similar or dissimilar factors.

6.05 Waiver of Liability. Neither the ARC nor any architect nor agent thereof nor the Association, Declarant, nor any Member, agent or employee of any of the foregoing shall be responsible in any way for the failure of any improvements to comply with the requirements of this Declaration or any governmental or industry code or regulation, nor for any defects in any Plans and Specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications, and all persons relying thereon or benefiting therefrom agree not to sue or claim against the entities and persons referred to in this Section for any cause arising out of the matters referred to herein and further agree to and do hereby release said entities and persons for any and every such cause.

6.06 Declarant's Exemption. Notwithstanding anything to the contrary, this Article does not apply to the Declarant. The Declarant shall have the right to approve any of the foregoing for

any Builder in lieu of the process for approval by the Board of Directors or ARC. The Declarant's review and approval of any Builder plans shall be deemed approval of the Association and such approval may not be revoked or modified, and any modifications of such approved plans shall only require the approval of the Declarant.

ARTICLE SEVEN USE RESTRICTIONS

7.01 Residential Use. Each Lot is hereby restricted to a private, single-family dwelling for residential use.

7.02 Subdivision of Lots. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions, and provisions hereof, to easements and rights-of-way, and matters of public record. No Lot may be subdivided into a smaller Lot or Lots unless approved by the Association; provided, however, that an entire Lot may, subject to any requisite governmental approvals, be combined with an entire adjacent Lot and occupied as one Lot, with one Home, but assessed and governed as two Lots.

7.03 Signs. No sign of any kind shall be displayed on any Lot, except (i) that any Owner actively attempting to sell his Lot may place a "for sale" sign of less than four (4) square feet on his Lot; (ii) during the building of homes in the Subdivision, the Declarant and/or the Builders in the Subdivision may place signs at the entrance and/or on any Lot to advertise the Subdivision and the Lots for sale therein; and (iii) any Owner may display a sign of reasonable size provided by a contractor for security services within 10 feet of any entrance to the home.

7.04 Noxious and Offensive Activity. No noxious or offensive activity shall be carried on, in or upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to any other Owner.

7.05 Design Criteria; Structure. All improvements to be constructed or otherwise located on a Lot by an Owner shall comply with the following requirements:

- (a) Any Home shall contain a minimum of seven hundred (700) square feet of heated and cooled living space.
- (b) Sidewalks may be required to be constructed along the street right-of-way of each Lot in accordance with a uniform plan established by the Declarant. In that event, each site Plan submitted to the Architectural Review Committee shall show the location and material to be used for construction of the sidewalk.
- (c) [Intentionally Deleted]
- (d) No window air-conditioning units shall be permitted on the front or sides of any residence so as to be visible from the front line of such Lot.

- (e) Underground electrical distribution facilities are required and no overhead electrical or similar wiring or lines shall be permitted.
- (f) All outside radio and T.V. antennas (including satellite dishes and other signal receiving/transmitting equipment) must be approved by the Architectural Review Committee and must be installed in such a way as minimize visibility from the front of the Lot and shall be placed on the back or side of any roof. Notwithstanding the foregoing, the Architectural Review Committee shall regulate antennas, satellite dishes, and/or other signal-receiving equipment of any kind in strict compliance with all federal laws and regulations.
- (g) Driveways must be made of concrete, or if not, the alternative surface must be approved by the Architectural Review Committee; provided, however, that in no event may any Driveway be painted, scored or otherwise colored.
- (h) Fences constructed or erected on any Lot shall be of wood construction and natural color and shall be limited to six feet (6') in height. All fences must be privacy fence design or shadowbox fence design and not exceed six feet tall. Walls or other designs are not permissible. No fence shall be constructed from the front property line to 20 feet behind the corner of the house nearest front property line. Any stain or coating applied to fences must result in a natural wood appearance. All Lots shall be grassed in the entire designated yard area by sodding and the yard shall be landscaped upon the completion of construction and before occupancy. It shall be the Owner's responsibility to maintain any landscaping, walls or fences situated on a Lot so that such improvements remain in an attractive, well-kept condition. Notwithstanding the foregoing, nothing in this subsection shall be construed to prohibit any Owner from implementing Florida-friendly landscaping, as defined under Florida law, on his or her Lot or create any requirement or limitation in conflict with part II of chapter 373 of the Florida Statutes.
- (i) No garments, rugs, towels or blankets or any other materials may be hung, exposed or dusted from the windows or from the front facade of any Home. Further, unless otherwise specifically prohibited by applicable local, State or Federal law, no outside clotheslines or other facilities for drying or airing clothes shall be erected in the front yard, side yard or back yard of any Home.
- (j) Existing drainage, including but not limited to swales on Lots, shall be maintained and shall not be altered in any manner, and specifically shall not be altered in such a manner as to divert the flow of water onto an adjacent Lot. Fences or other structures shall not be installed in any manner which obstructs stormwater flow.

7.06 Animals. No animals, livestock, swine, insects or poultry of any kind shall be raised, bred, or kept on any Lot except that dogs, cats, and other household pets may be kept subject to the rules and regulations adopted by the Association, provided that they are not kept, bred, or maintained for any commercial purpose. Pets must be kept leashed and/or under control at all times. Pets permitted by this Section may be kept on a Lot only so long as such Pets do not

constitute a nuisance. The Board of Directors shall have the power to require the removal and relocation of any unauthorized animal and any Pet that is a nuisance, or which has harmed, or which presents a threat of harm, to residents and others in the Subdivision. Each person bringing or keeping an animal within the Subdivision shall be absolutely liable to the Association, other Owners and their invitees for any damage to persons or property caused by any animal brought upon or kept upon a Lot or the Common Area and it shall be the duty and responsibility of each such Owner to clean up after Pets which have deposited droppings or otherwise used any portion of the Community Property. No Pets shall be "tied out" in a yard or on a porch or patio, or left unattended outside for any extended period of time. Outdoor kennels, cages and dog runs are not permitted on any Lot. Notwithstanding the foregoing, the restrictions in this Section 7.06 shall not apply to any service animals, support animals, or any other animals permissible under the Fair Housing laws.

7.07 Waste. No rubbish, trash, garbage, or other waste material shall be kept or permitted upon any Lot except in sanitary containers located in appropriate area, screened and concealed from view.

7.08 Miscellaneous. Except as otherwise provided for herein, no patio cover, building or storage unit of any kind shall be erected, placed or set on any Lot unless such structure is attached to the House erected on the same Lot and the architecture and character of such structure matches that of said House. Notwithstanding the foregoing, one (1) accessory building may be erected, placed or set on any Lot if such structure is: (a) located upon the back yard of such Lot; (b) enclosed on all sides by a wooden fence of at least six (6) feet in height; (c) of the same architecture and character of the House located on such Lot; and, (d) approved by the Architectural Review Committee.

7.09 Temporary Structures. No structure of a temporary character, trailer, mobile home, motor home, modular building unit, basement, tent, shack, garage, barn, or other outbuilding shall be used at any time on the Lots as a residence, either temporarily or permanently.

7.10 Vehicles.

- (a) No inoperative cars, trucks, trailers, boats, campers or other types of vehicles shall be allowed to remain either on or adjacent to any Lot for a period in excess of forty-eight (48) hours.
- (b) No trucks larger than a one-ton pickup shall be parked in the Subdivision, except those reasonably necessary to complete approved improvements.
- (c) Recreational vehicles and campers shall not be parked on or stored on any Lot. Boats shall be stored out of sight from all neighbors and fully screened by a privacy fence of no less than six (6) feet in height.
- (d) Overnight parking within any street right of ways is prohibited. Parking in yards is strictly prohibited.

- (e) There shall be no major repair performed on any motor vehicle on or adjacent to any Lot.
- (f) No noxiously loud or dangerous vehicles shall be allowed to be operated on any Lot.

7.11 Construction. Any and all improvements on any Lot shall comply with the standards and provision of Escambia County, Florida and its applicable building code. The use of dumpsters for construction sites is permitted.

- (a) When the construction of any improvement upon any Lot has begun, work thereon shall be pursued diligently and continuously until full completion. During construction on any Lot, all vehicles involved in such construction, including those delivering materials and supplies, shall enter upon such Lot only at such a location as to not interfere with the flow of traffic in the Subdivision, and such vehicle shall not be parked on the streets and roads of the Subdivision. All construction sites must be kept clean, and debris shall not be allowed to accumulate. During construction, the use of dumpsters for routine cleaning of construction sites is permitted.
- (b) No residence constructed on any Lot may be occupied prior to its substantial completion.
- (c) Landscaping shall be completed within sixty (60) days after completion of construction.
- (d) In addition to compliance with the requirements set forth under this Declaration, any and all improvements on any Lot shall comply with the standards and provision of Okaloosa County, and its applicable building code.

7.12 Pollution. There shall be no noxious emission of smoke, dust, odor, fumes, glare, noise, vibration, electrical or magnetic disturbance, detectable at the lot line or beyond.

7.13 Outdoor Lighting. All outside lights shall be of an intensity not to exceed 100 watts and shall be placed so as to avoid an annoyance to any neighbor. Said lighting shall be turned toward the ground and shall be shielded completely or by frosted glass or plastic in all directions so that it does not shine toward neighboring Lots. Flood lights which shine all night are specifically prohibited.

7.14 Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or waste. All storage equipment for such material shall be kept in a clean and sanitary condition.

7.15 Oil and Mining Operations. No activity or hardware used for the purpose of exploration or extraction of minerals, oil, or gas shall be allowed on any Community Property at any time.

7.16 Firearms and Fireworks. The display or discharge of firearms or fireworks on any Lot or any Common Area is prohibited; provided, however, that the display of lawful firearms is

permitted by law enforcement officers. The term "firearms" includes "B-B" guns, pellet guns and other firearms of all types, regardless of size.

7.17 No Hanging of Items. No clothes, sheets, blankets, towels, laundry of any kind or other articles shall be hung out or exposed on any balconies, patios, or railings.

7.18 Hazardous Items. No one shall use or permit to be brought onto any Lot or upon any of the Common Area any flammable oils or fluids such as gasoline, kerosene, naphtha or benzene, or other explosives or articles deemed hazardous to life, limb or property, without the written consent of the Board of Directors; provided, however, that an Owner may store and possess gasoline and other flammable or hazardous materials typically used in the operation and maintenance of a single family residence and yard, in reasonable quantities for personal use upon Owner's Lot without obtaining such written consent. The Board of Directors may require removal of any flammable or hazardous materials from the Subdivision if it determines, in its sole and absolute discretion, that any type or quantity of material is in violation of this Section.

7.19 Water and Sewer Service. The Owner of each Lot shall be required to connect to and use the central water distribution system and central sanitary sewage disposal system serving the Subdivision, and shall be responsible for paying all connection fees and assessments. Septic tanks or wells may be permitted in the event that a centralized sanitary sewage disposal system is unavailable. This Declaration does not prohibit the use of wells for landscape irrigation.

7.20 Windows and Window Treatments. Reflective glass shall not be permitted on the exterior of any House or other structure. No foil or other reflective materials shall be installed on any windows or used for sunscreens, blinds, shades or for other purposes. All exterior window styles, materials, and colors and all hurricane or storm shutters must be approved by the Architectural Review Committee; provided, however, that in no event shall burglar bars and/or wrought iron doors be permitted. Hurricane or storm shutters (a) may not be closed or otherwise installed to cover windows unless and until a tropical storm or hurricane warning is issued by the National Weather Service for the County in which the Subdivision is located, and (b) shall be opened and/or otherwise removed within seventy-two (72) hours of the storm's passage.

7.21 Lots on Wetland Areas, Body of Water. No Lot shall be increased in size by filling in of any wetlands, body of water, creek or any waterway on which it may abut without appropriate governmental permits (if any are required) and prior written approval of the Architectural Review Committee.

7.22 Compliance With Law. In all cases, each Owner shall comply in all respects with all applicable laws, codes, rules and regulations (including, without limitation, applicable zoning ordinances) promulgated by any governmental authority having jurisdiction over the Lots and the Common Area.

7.23 Swimming Pools. No swimming pool or swimming pool screening shall be constructed, altered or maintained upon any Lot without the prior written approval of the Architectural Review Committee in accordance with this Declaration. Notwithstanding the foregoing, any such swimming pool must also be constructed, equipped, and maintained in

accordance with the laws, ordinances, regulations, rules and standards of any city, county, and/or state authorities having jurisdiction over the Subdivision. Any Owner who desires to construct a swimming pool on such Owner's Lot shall also, prior to completion of such swimming pool, construct a fence around such swimming pool, which fence must also be approved by the Architectural Review Committee. Notwithstanding anything contained herein to the contrary, above-ground pools are expressly prohibited.

7.24. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or energy conservation equipment (collectively, "Energy Conservation Equipment") shall be constructed or installed on any Lot or House without the prior written approval of the Architectural Review Committee in accordance with this Declaration. Energy Conservation Equipment shall be installed in such a way as to minimize visibility from any Common Area or road within the Subdivision. Notwithstanding the foregoing, the Association shall have the right to promulgate Rules regarding the use and location of Energy Conservation Equipment; provided, however, that such rules and regulations shall not impair the effective operation of such Energy Conservation Equipment and shall comply with the requirements set forth in the Act or other applicable law.

7.25 Outdoor Equipment. No outdoor equipment, tools, generators, or sporting equipment (including but not limited to basketball goals) may be installed or affixed to any Lot or House without prior written approval from the Architectural Review Committee; provided, however, that portable outdoor equipment, tools, generators, or sporting equipment may be used on a temporary basis for no more than twenty-four (24) hours and promptly removed from view after use. Notwithstanding the foregoing, portable generators may be used and located on a Lot for more than twenty-four (24) hours in the event of an emergency or power outage but must be promptly removed once power is restored. Any backyard playground equipment or trampoline placed on a Lot must be fenced, with ARC prior approval required for the fencing design, materials, height and location.

ARTICLE EIGHT ADDITIONAL RESTRICTIONS

8.01 Leasing. Homes and Lots may be leased by an Owner for residential purposes only. Any Owner who leases his Home or any portion thereof shall be responsible for the acts of his tenants, including, without limitation, the violation of this Declaration and/or any Rules of the Association.

8.02 Restrictions on Mortgaging Lots. Nothing contained herein shall be construed to place any restrictions on an Owner's right to mortgage his Lot.

8.03 Rules. Reasonable Rules concerning the use of the Lots and the Common Area may be made and amended from time to time by the Board of Directors.

8.04 Lender's Notices. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Lot number or address, any mortgage holder, insurer, or guarantor will be entitled to timely written notice of:

- (a) Any condemnation or casualty loss that affects either a material portion of the Common Area or the Lot securing its mortgage.
- (b) Any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage.

ARTICLE NINE ENFORCEMENT; DURATION; AMENDMENT

9.01 Enforcement. The Association, the Board of Directors, the Architectural Review Committee and/or any Owner shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges imposed by the provisions of this Declaration. Failure by the Association, the Board of Directors, the Architectural Review Committee and/or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

9.02 Attorneys' Fees. In any action (whether in advance of or prior to the initiation of any legal or equitable proceeding, in arbitration, in trial, in any administrative or other similar proceedings, or in any appeal from any of the same) pertaining to any condition, restriction or covenant herein contained (due to their alleged violation or breach) or for the enforcement of any lien against any Lot or against any Person, unless otherwise expressly provided in this Declaration to the contrary for specific instances and conflicts, the prevailing party shall be entitled to recover all costs, including reasonable legal fees and expenses.

9.03 Term. This Declaration is to take effect upon recordation and shall be binding upon the Association and all Owners and all persons and entities claiming title under and through them for thirty (30) years after the date this Declaration is recorded in the public records, after which time said covenants, as amended from time to time, shall automatically renew for successive ten (10) year periods, or if required by the law then in effect, this Declaration may be preserved and/or otherwise extended for successive terms in accordance with Florida Statutes, Chapters 720 and 712, as amended from time to time. In the event the Association ceases to exist, except as provided in Article Thirteen herein, any Owner may petition the Circuit Court for the appointment of a receiver to manage the affairs of the Association and all Common Area and the corresponding infrastructure will be dedicated or conveyed to a similar non-profit organization or entity to assure continued maintenance and operation.

9.04 Amendments. This Declaration may be amended by vote of the Members having sixty-seven percent (67%) of the voting interests in the Association. Notwithstanding the foregoing, Declarant shall have and reserves the right at any time and from time to time, without the joinder or consent of any other party to amend this Declaration by any instrument in writing duly signed, acknowledged and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, or in accordance with Section 10.03 below.

ARTICLE TEN
RESERVED DECLARANT RIGHTS

10.01 **General Reserved Rights.** Declarant reserves unto itself, its successors and assigns:

- (a) A right-of-way and easement for ingress and egress and easement for utilities, drainage, maintenance, repairs and other related uses over, along, and across the Common Area for all purposes relating in any manner to the subdividing, developing or aiding in the development of the Subdivision or any parts or parts thereof or additions thereto by Declarant or others.
- (b) The right to grant easements and rights-of-way of ingress and egress and for drainage, utilities, maintenance and repairs along, over, across and under the Common Area to any person, firm, corporation or entity for use as ingress or egress or for drainage, utilities, maintenance and repairs.
- (c) The right to maintain, and grant Builders the right to maintain, a sales office and/or a management office and/or one or more model homes in the Subdivision and to maintain signs therein advertising the Subdivision and to conduct its business and sales activities pertaining to the Subdivision therein and therefrom.

Except as set forth in Section 10.04, all of the above rights and interests reserved by Declarant may be exercised by Declarant without the consent or concurrence of the Association or any Member.

10.02 **Right to Annex Property.** Declarant hereby reserves the right, exercisable in its sole and absolute discretion, to (a) make any real property adjacent to the Subdivision (the "Additional Property") subject to all or any of the terms and conditions of this Declaration and/or (b) permit owners of Additional Property to become Members of the Association. No assurances can be made as to whether any Additional Property will be annexed. Furthermore, Declarant expressly reserves the right to exercise this right on multiple occasions until such time as all Additional Property has been annexed into the Subdivision and made subject to this Declaration. No assurances can be made with respect to the boundaries of any portions of any Additional Property that might be annexed. The Additional Property may be annexed in accordance with this Section by an amendment to this Declaration, which amendment may be made and entered into by Declarant in its sole and absolute authority and discretion without the consent, approval or signature of the Association or any Member. Notwithstanding anything contained in this Section to the contrary, (i) no Additional Property shall be subject to this Declaration unless and until Declarant executes an amendment to this Declaration affirmatively exercising Declarant's rights hereunder and records such amendment in the County in which this Declaration is recorded, and (ii) in the event Declarant exercises its right to annex any Additional Property in accordance with this Section, Declarant shall also have the sole and exclusive right to alter, or otherwise replace with other terms, the terms of Section 7.05 hereof as those terms pertain to any Lots created out of such Additional Property.

10.03 **Amendment of Declaration by Declarant.** Until Turnover, Declarant reserves unto itself the right, authority and power to amend this Declaration in any manner Declarant deems

necessary and appropriate. Any amendment to this Declaration made in accordance with this Section shall require only the signature of Declarant and shall not require the signature of any other Owner or any Mortgagee of any Owner, except as required by Section 10.04. Such amendments shall comply with Section 720.3075(5) of the Act.

10.04 Consent of D.R. Horton to Certain Matters. Declarant may not exercise any rights reserved in this Article 10, or take any action or grant any approval as Declarant under this Declaration (other than any other approval given in the ordinary course as an Owner and not as Declarant) without obtaining the prior written consent of D.R. Horton, Inc.

10.05 Turnover. All rights of Declarant hereunder shall automatically terminate upon Turnover, except those rights that Declarant holds as an Owner and not by virtue of being the Declarant under this Declaration, which shall continue as long as Declarant is an Owner.

ARTICLE ELEVEN INSURANCE/CASUALTY

11.01 Insurance on Common Area. The Association shall obtain the insurance coverage necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the U.S. Department of Veterans Affairs, and the U.S. Department of Housing and Urban Development, as applicable to the Subdivision. Accordingly, the Board shall obtain casualty insurance for all insurable improvements, whether or not located on the Common Area, which the Association is obligated to maintain. This insurance shall provide, at a minimum, fire and extended coverage and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board shall obtain a public liability policy applicable to the Common Area covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents, and, if reasonably available, directors' and officers' liability insurance. Policies may contain a reasonable deductible as determined by the Board. In addition to the other insurance required by this section, the Board shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees and other persons handling or responsible for the Association's funds. Unless the requirement of fidelity coverage is waived in the manner provided in the Act, the amount of fidelity coverage shall cover the maximum funds that will be in the custody of the Association or its management agent at any time while the policy is in force. Fidelity coverage shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation. All such insurance coverage shall be written in the name of the Association.

11.02 Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of individual Lots and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry all-risk casualty insurance on the Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an all-risk policy, if reasonably available and shall be in an amount sufficient to

cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The policies required hereunder shall be in effect at all times.

11.03 Damage and Destruction – Insured by Association. Not later than ninety (90) days after damage or destruction by fire or other casualty to any portion of any improvement covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within 120 days after the casualty, a proposal not to repair or reconstruct such property is approved by at least seventy-five percent (75%) of the voting interests of the Members. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed one hundred eighty (180) days. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a special assessment against the Owner of each Lot. Additional assessments may be made in like manner, as necessary, at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association. In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, the property shall thereafter be maintained by the Association in a neat and attractive condition.

11.04 Damage and Destruction – Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within ninety (90) days after such damage or destruction or, where repairs cannot be completed within ninety (90) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within ninety (90) days after such damage or destruction.

ARTICLE TWELVE MISCELLANEOUS

12.01 Savings. If any provision or provisions of this Declaration, or any article, section, sentence, clause, phrase, or word herein, or the application thereof, is in any circumstances held invalid, the validity of the remainder of this Declaration and the application thereof shall not be affected thereby.

12.02 Captions. The captions in this Declaration are for convenience only and are not a part of this Declaration and do not in any way limit or amplify the terms and provisions of this Declaration.

12.03 Applicable Law. The laws of the State of Florida shall govern this Declaration. All actions or proceedings in any way, manner or respect, arising out of or from or related to this Declaration shall be litigated only in courts having situs within the County in which the Subdivision is located. Each Owner hereby consents and submits to the jurisdiction of any local, state or federal court located within said county and state and hereby waives any rights it may have to transfer or change the venue of any such litigation. The prevailing party in any litigation in connection with this Declaration shall be entitled to recover from the other party all costs and expenses, including, without limitation, fees of attorneys and paralegals, incurred by such party in connection with any such litigation.

12.04 Effect of Waiver or Consent. A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations hereunder is not a consent or waiver to or of any breach or default in the performance by that Person of the same or any other obligations of that Person. Failure on the part of a Person to complain of any act or to declare any Person in default hereunder, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default.

12.05 Headings. The headings and captions herein are used solely as a matter of convenience and shall not define, limit or expand any term or provision of this Declaration.

12.06 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a subdivision in accordance with Florida law. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

12.07 Notice. All notices required or desired under this Declaration to be sent to the Association shall be sent certified mail, return receipt requested, by hand delivery or by a recognized overnight courier who maintains verification of delivery, to the Secretary of the Association, at such address as the Association may designate from time to time by notice in writing to all Owners. All notices to any Owner shall be delivered in accordance with the Act. It is the responsibility of Owners to provide to the Association's Secretary and/or association management the Owner's mailing address, if different from that of the Lot address, and to promptly notify the Association in writing of any changes in Lot ownership or mailing address.

12.08 Conflict Between Documents. If there is any conflict or inconsistency between the terms and conditions of this Declaration and the terms and conditions of the Articles of Incorporation, the Bylaws or any rules and regulations promulgated hereunder, the terms and conditions of this Declaration shall control. If there is any conflict or inconsistency between the terms and conditions of the Articles of Incorporation and the terms and conditions of the Bylaws or any rules and regulations promulgated hereunder, the terms and conditions of the Articles of Incorporation shall control. If there is any conflict or inconsistency between the terms and

conditions of the Bylaws and the terms and conditions of any rules and regulations promulgated hereunder, the terms and conditions of the Bylaws shall control.

12.09 Fair Housing Amendments Act of 1988. This Declaration, the Articles, the Bylaws, and any Rules of the Association shall be subordinate to and interpreted and applied in a manner so as to be consistent with 42 U.S.C. §3601, *et seq.*

12.10 Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Subdivision designed to make the Community Property safer than it otherwise might be. Neither the Association, Builder, the original Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Subdivision, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system or measures, including any mechanism or system for limiting access to the Community Property, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of their Homes that the Association, its Board of Directors and committees, Builder, Declarant, and any successor Declarant are not insurers and that *each* Person using the Community Property assumes all risks of personal injury and loss or damage to property, including Homes and the contents of Homes, resulting from acts of third parties.

12.11 NOTICES AND DISCLAIMERS.

(a) CONSTRUCTION ACTIVITIES. ALL OWNERS, OCCUPANTS AND USERS OF THE PROPERTY ARE HEREBY PLACED ON NOTICE THAT THE DECLARANT, ANY BUILDER, THE ASSOCIATION, OR ANY OF THEIR OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (THE "LISTED PARTIES") WILL BE, FROM TIME TO TIME, CONDUCTING EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO THE PROPERTY. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, OR BY USING ANY PORTION OF THE PROPERTY, EACH SUCH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO THE PROPERTY WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) THAT ENTRY GATES MAY BE OPEN DURING ANY PERIODS

OF CONSTRUCTION AT ANY TIMES OR ALL TIMES IN THE SOLE DISCRETION OF THE DECLARANT OR THE ASSOCIATION (iv) THE LISTED PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, (v) ANY PURCHASE OR USE OF ANY PORTION OF THE PROPERTY HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING AND (vi) THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO DECLARANT TO SELL, CONVEY, LEASE AND/OR ALLOW THE USE OF THE APPLICABLE PORTION OF THE PROPERTY.

- (b) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, THE COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND
- (c) ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.
- (d) WATER BODIES AND WILDLIFE. THE SUBDIVISION MAY CONTAIN WATER BODIES SUCH AS LAKES, PONDS, CANALS, CREEKS, STREAMS, PRESERVES OR OTHER BODIES OF WATER IN OR IN THE VICINITY OF THE SUBDIVISION ("WATER BODIES"). SUCH WATER BODIES MAY POSE HEALTH AND SAFETY RISKS TO OWNERS, OCCUPANTS AND USERS OF THE PROPERTY IN AND AROUND THE SUBDIVISION, INCLUDING THE RISK OF DANGEROUS WILDLIFE.

ARTICLE THIRTEEN STORMWATER MANAGEMENT

13.01 Stormwater Management

- (a) The Stormwater Management System shall be maintained by the Association, and shall be located: (i) on land that is designated Common Area on the Plat of Subdivision; (ii) on land that is owned by the Association; or (iii) on land that is subject to an easement in favor of the Association and its successors.
- (b) No construction activities may be conducted relative to any portion of the Stormwater Management System. Prohibited activities include, but are not limited to, digging or excavation; depositing fill, debris or any other material or item; constructing or altering any water control structure; or any other construction to

modify the Stormwater Management System. If the project includes a wetland mitigation area, or a wet detention pond, no vegetation in these areas shall be removed, cut, trimmed or sprayed with herbicide without specific written approval from NFWFMD.

- (c) The Association shall operate, maintain and manage the Stormwater Management System(s) in a manner consistent with the requirements of NFWFMD Permit No. IND-033-300530-1, which is attached hereto as **Exhibit "D"**, as modified in accordance with Sub-section 62-330.020(2)(c), 62-330.020(2)(d), 62-330.020(2)(b), 62-330.020(2)(g) and 62-330.020(2)(i) Florida Administrative Code (F.A.C.) and applicable NFWFMD rules, and shall assist in the enforcement of the restrictions and covenants contained herein. Maintenance of the Stormwater Management System(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the NFWFMD. Any repair or reconstruction of the Stormwater Management System shall be as permitted, or if modified as approved, by the NFWFMD.
- (d) NFWFMD has the right to take enforcement measures, including a civil action for injunction and/or penalties, against the Association to compel it to correct any outstanding problems with the Stormwater Management System.
- (e) Notwithstanding anything contained in this Declaration to the contrary, any amendment to this Declaration that alters the Stormwater Management System, beyond maintenance in its original condition, including mitigation or preservation areas and the water management portions of the Common Area, must have the prior written approval of NFWFMD.
- (f) In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the Stormwater Management System must be transferred to and accepted by an entity which complies with Rule 62-330.310 F.A.C., and NFWFMD Applicant's Handbook Volume 1, Section 12.3, and be approved by the NFWFMD prior to such termination, dissolution or liquidation.
- (g) If any property within the Subdivision has on-site wetland mitigation which requires ongoing monitoring and maintenance, the Association shall allocate sufficient funds in its budget for monitoring and maintenance of the wetland mitigation area(s) each year until NFWFMD determines that the area(s) is successful in accordance with any environmental resource permit(s).
- (h) Each Owner, at the time of construction of their building or structure, shall comply with the construction plans for the Stormwater Management System approved and on file with NFWFMD.
- (i) No Owner may construct or maintain any building, fence or structure, or undertake to perform any activity which would alter the wetlands, wetland mitigation areas, buffer areas, upland conservation areas and drainage easements described in the approved permit and Plat of Subdivision, unless prior written approval is received from the NFWFMD.

- (j) The Owners of Lots abutting wet detention ponds shall not remove native vegetation, including cattails, that becomes established within the wet detention ponds abutting their Lot. Removal shall include, but not be limited to, dredging, the application of herbicide, cutting and the introduction of grass carp. Owners shall address any questions regarding authorization activities within the wet detention ponds to a NFWFMD Regulation Manager.
- (k) A “Recorded Notice of Environmental Resource Permit,” in form and content reasonably approved by the Florida Department of Environmental Protection, or other applicable governmental agency, shall be recorded in the public records of Okaloosa County, Florida. The Association, and its registered agent, shall maintain copies of all permitting actions undertaken for the benefit of the Association.

13.02 Right to Transfer. The Association shall have the right to dedicate or transfer all or any part of the Common Area, to any public agency, authority or utility for such purposes of stormwater management and subject to such conditions as may be agreed to by the Members. No such dedications or transfers shall be effective unless an instrument signed by the Members entitled to cast sixty-seven percent (67%) of the votes of the Association has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than (30) days and no more than sixty (60) in advance of such dedication or transfer. Notwithstanding the foregoing, Declarant specifically reserves and retains the rights to transfer and convey to Emerald Coast Utilities Authority (ECUA), or to any other appropriate entity which complies with Rule 62-330.310, F.A.C., and NFWFMD Applicant’s Handbook Volume 1, Section 12.3, as approved by NFWFMD, any Stormwater Management System on the Common Area of the Subdivision.

{Remainder of Page Intentionally Left Blank}

IN WITNESS WHEREOF, Declarant has executed this Declaration by and through its duly authorized representative as of the date first set forth above.

Witnesses:

Sophie Denise Sumner

Print Name: SUMNER

Brad Mors

Print Name: Lindsay Whidden

DECLARANT:

D.R. HORTON, INC., a Delaware corporation

By: BH

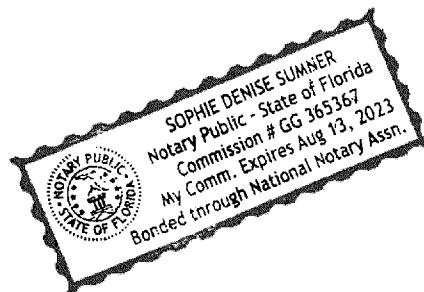
Name:

Its:

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 7 day of MARCH, 2023, by Brad Mors, as _____ of D.R. HORTON, INC., a Florida corporation, on behalf of said entity. He/She is personally known to me or has produced _____ as identification.

[SEAL]



Sophie Denise Sumner
Notary Public Signature

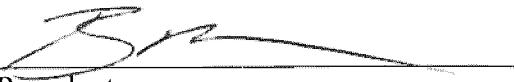
Sophie Denise Sumner
Notary Public Printed Name

ASSOCIATION JOINDER

Sutton Place Property Owners' Association, Inc., whose mailing address is 400 Schubert Drive, Pensacola, FL 32504, hereby approves and joins in the Declaration of Covenants, Conditions and Restrictions of Sutton Place and the Exhibits attached thereto, and agrees to be bound by the terms thereof and will comply with and perform the terms and conditions of the Declaration.

IN WITNESS WHEREOF, Sutton Place Property Owners' Association, Inc. has executed this Joinder on this 7 day of MAR/11, 2023.

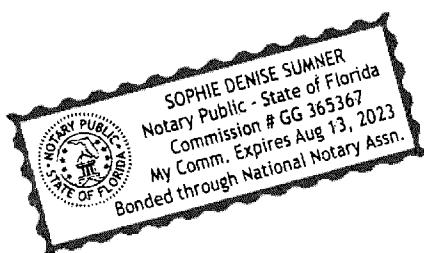
Sutton Place Property Owners' Association, Inc.

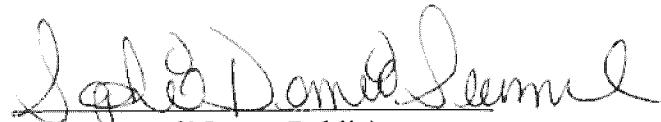
By: 
Its: President

STATE of FLORIDA

COUNTY of ESCAMBIA

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 7 day of MAR/11, 2023, by _____ as President of Sutton Place Property Owners' Association, Inc., on behalf of the Association. He/She is personally known to me or has produced _____ as identification.





(Signature of Notary Public)

Print Name: _____

Commission No.: _____

My Commission Expires: _____

EXHIBIT "A"
DESCRIPTION OF THE SUBDIVISION PROPERTY

All of that certain property identified on the Plat for Sutton Place Subdivision as recorded in Plat Book 8915, Page 482 in the Official Records of Escambia County, Florida.

EXHIBIT "B"
ARTICLES OF INCORPORATION

To: 8506176381

From: Kennedy Turan

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(((H22000375169 3)))

ARTICLES OF INCORPORATION OF SUTTON PLACE PROPERTY OWNERS' ASSOCIATION, INC.

The undersigned incorporator hereby adopts the following Articles of Incorporation for the purpose of forming a not-for-profit corporation under the "Florida Not-For-Profit Corporation Act."

ARTICLE I CORPORATE NAME

The name of the Corporation shall be SUTTON PLACE PROPERTY OWNERS' ASSOCIATION, INC., hereinafter called the "Association."

ARTICLE II EXISTENCE AND DURATION

Existence of the Association shall commence with the filing of these Articles of Incorporation with the Secretary of State, Tallahassee, Florida. The Association shall exist in perpetuity.

ARTICLE III DEFINITIONS

The terms used in these Articles shall have the same definitions and meanings as those set forth in the Declaration of Covenants, Conditions, Restrictions and Easements for Sutton Place Subdivision recorded or to be recorded in the public records of Escambia County, Florida (the "Declaration"), unless herein provided to the contrary, or unless the context otherwise requires. Supplementary terms:

"Director" shall mean and refer to those persons elected to the Association's Board of Directors pursuant to Article V herein.

"Officer" shall mean and refer to those persons elected by the Board pursuant to Article VI herein.

"Member" shall mean and refer to those persons entitled to membership in the Association as provided in the Declaration.

"Property" shall mean and refer to the real property described within the Declaration.

Stephen R. Moorhead, Esquire
FL Bar No. 613339
Moorhead Law Group, PLLC
127 Palafox Place, Suite 200
Pensacola, FL 32502
(850) 202-8522
(850) 477-0982 (fax)

To: 8506176381

From: Kennedy Turan

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ARTICLE IV

PURPOSES AND POWERS

The Association is not organized for pecuniary profit or financial gain, and no part of the Association's assets or income shall inure to the benefit of any Director, Officer or Member of the Association except as may be authorized by the Board of Directors in accordance with the terms and provisions of the Bylaws of the Association with respect to the compensation of Directors, Officers or Members of the Association for the rendition of unusual or exceptional services to the Association.

1. Purpose and Powers of Association. The purposes for which the Association is formed, and the powers that may be exercised by the Board of Directors of the Association, are:

(a) To own, operate, maintain, preserve or replace, and to provide architectural control over the Property, including the Common Property, and to those properties that may be annexed to the Property from time to time pursuant to the Declaration; and

(b) To acquire by gift, purchase, or otherwise, and to own, build, improve, operate, repair, maintain and replace, lease, transfer, and otherwise dispose of, real property, buildings, improvements, fixtures and personal property in connection with the business and affairs of the Association; and

(c) To dedicate, sell or transfer all or any part of the Common Property to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective without the consent of a majority of the Members to such dedication, sale or transfer, in writing or by vote at a duly called meeting of the Association, or without the prior written consent of Declarant so long as Declarant owns at least one (1) Lot; and

(d) To establish, levy, collect, and enforce payment of, all assessments and charges pursuant to the terms and provisions of the Declaration or Bylaws of the Association, and to use the proceeds thereof in the exercise of its powers and duties; and

(e) To operate, maintain and manage the Stormwater Management System (as defined in the Declaration) in a manner consistent with the requirements of the applicable Northwest Florida Water Management District (the "District") Permit and District rules, and shall assist in the enforcement of the restrictions and covenants contained herein; and

(f) To establish, levy, collect, and enforce payment of, adequate assessments and charges against members of the Association for the costs of maintenance, operation and repair of the Stormwater Management System (as defined in the Declaration) and mitigation or preservation areas including, but not limited to, work within retention areas, drainage structures and drainage easements; and

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From: Kennedy Turan

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(g) To borrow money and to pledge, mortgage or hypothecate any or all of the real or personal property owned by the Association as security for money borrowed or debts incurred by the Association; and

(h) To annex additional real property to the Property pursuant to the terms and provisions of the Declaration; and

(i) To exercise such powers which are now or may hereafter be conferred by law upon an association organized for the purposes set forth herein, or which may be necessary or incidental to the powers so conferred; and

(j) To grant easements on or through the Common Property or any portion thereof; and

(k) To exercise all of the powers and privileges, and to perform all of the duties and obligations, of the Association as set forth in the Declaration, as the same may be amended from time to time; and

(l) To promulgate or enforce rules, regulations, bylaws, covenants, restrictions or agreements to effectuate the purposes for which the Association is organized; and

(m) To contract for the management of the Association and to delegate in such contract all or any part of the powers and duties of the Association, and to contract for services to be provided to Owners including, but not limited to, trash removal and other utilities or services; and

(n) To purchase insurance upon the Property or any part thereof and insurance for the protection of the Association, its Officers, its Directors and the Owners; and

(o) To employ personnel to perform the services required for the proper operation of the Association.

The foregoing clauses shall be construed both as purposes and powers, and the enumeration of specific purposes and powers shall not be construed to limit or restrict in any way the purposes and powers of the Association that may be granted by applicable law and any amendments thereto.

ARTICLE V BOARD OF DIRECTORS

1. Number and Qualifications. The business and affairs of the Association shall be managed and governed by a Board of Directors. The number of Directors constituting the initial Board of Directors shall be three (3). The number of Directors may be increased or decreased from time to time in accordance with the Bylaws of the Association, but in no event shall there be less than three (3) nor more than five (5) Directors. Directors need not be Members of the Association.

To: 85061-76381

From: Kennedy Turan

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2. Duties and Powers. All of the duties and powers of the Association existing under the Declaration, these Articles and the Bylaws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject to approval by Owners only when such approval is specifically required.

3. Election; Removal. Directors of the Association shall be elected at the Annual Meeting of the Members in the manner determined by and subject to the qualifications set forth in the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

4. Term of Initial Directors. The Declarant shall appoint the members of the first Board of Directors and their replacements, who shall hold office for the periods described in the Bylaws.

5. Initial Directors. The names and addresses of the initial Board of Directors, who shall hold office until their successors are elected and have taken office, as provided in the Bylaws, are as follows:

James T. Granat
1820 Escambia Avenue
Pensacola, FL 32503

- Class 1 (initial one-year term)

Aaron T. Granat
1820 Escambia Avenue
Pensacola, FL 32503

- Class 2 (initial two-year term)

Ronald Johnson
1820 Escambia Avenue
Pensacola, FL 32503

- Class 3 (initial three-year term)

ARTICLE VI OFFICERS

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The affairs of the Association shall be administered by the Officers holding the offices designated in the Bylaws. The Officers shall be elected by the Board of Directors of the Association at its first meeting following the Annual Meeting of the Members and shall serve at the pleasure of the Board of Directors. The Bylaws may provide for the removal of Officers, for the filling of vacancies and for the duties of the Officers. The names and addresses of the Officers who shall serve until their successors are designated by the Board of Directors are as follows:

To: 85061-76381

From: Kennedy Turan

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President Ronald A. Johnson
 1820 Escambia Avenue
 Pensacola, FL 32503

Vice President Aaron T. Granat
 1820 Escambia Avenue
 Pensacola, FL 32503

Secretary James T. Granat
 1820 Escambia Avenue
 Pensacola, FL 32503

Treasurer James T. Granat
 1820 Escambia Avenue
 Pensacola, FL 32503

ARTICLE VII MEMBERSHIP

1. Membership Rights. Every person or entity who is a record title owner of any Lot shall be a Member of the Association. Any person or entity who holds an interest in any Lot merely as security for the performance of an obligation shall not be a Member of the Association. Membership in the Association is appurtenant to a Lot and cannot be conveyed other than by conveyance of fee simple title to the Lot.

2. Informal Action By Members. Any action that may be taken at a Members' meeting may be taken without a meeting if a consent in writing, setting forth the action, shall be signed by the holders of not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted, and filed with the Secretary of the corporation. Within ten (10) days after obtaining such authorization by written consent, notice must be given to those Members who have not consented in writing to such action taken. The notice must fairly summarize the material features of the authorized action.

ARTICLE VIII AMENDMENT

Amendments to these Articles shall be made in the following manner:

1. Proposal. Notice of the subject matter for a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered.

To: 8506176381

From: Kennedy Turan

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2. Adoption. The resolution for the adoption of a proposed amendment may be proposed by either a majority of the Board of Directors or by not less than one third (1/3) of the Members. Directors and Members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that the approval is delivered to the Secretary at or prior to the meeting. The approval must be by not less than a majority of the votes of all the Members represented at a meeting at which a quorum of Members is present.

3. Limitation. No amendment shall make any changes in the qualifications for membership, nor in the voting rights or property rights of Members, nor any changes in Article IV or Article XI of the Articles entitled "Purposes and Powers" and "Indemnification," respectively, without the approval in writing of all Members and the joinder of all record owners of mortgages on Lots. No amendment shall be made that is in conflict with the Declaration or Bylaws, nor shall any amendment make changes that would in any way affect the rights, privileges, powers or options herein provided in favor of, or reserved to, Declarant, or an affiliate of Declarant, unless Declarant shall join in the execution of the amendment. No amendment to this Paragraph C or Article VIII shall be effective.

4. Declarant's Amendment. The Declarant may amend these Articles consistent with the provisions of the Declaration allowing certain amendments to be affected solely by the Declarant.

5. Recording. A copy of each amendment shall be filed with the Secretary of State, pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State shall be recorded in the Public Records of Escambia County, Florida.

ARTICLE IX BYLAWS

The first Bylaws of the Association shall be adopted by the Board of Directors and may be altered, amended, rescinded in the manner provided in the Bylaws and the Declaration.

ARTICLE X INCORPORATOR

The name and address of the incorporator of the Association are: Stephen R. Moorhead, 127 Palafox Place, Suite 200, Pensacola, Florida 32502.

ARTICLE XI INDEMNIFICATION

1. Indemnity. The Association shall indemnify any person who is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a Director, employee, Officer or agent of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or

To: 8506176381

From: Kennedy Turan

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proceeding, unless: (a) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he or she did not act in good faith, or in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Association, and, with respect to any criminal action or proceeding, that he or she had reasonable cause to believe his or her conduct was unlawful; and (b) such court further specifically determines that indemnification should be denied.

The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

2. Expenses. To the extent that a Director, Officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Paragraph A, above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

3. Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding upon the receipt of an undertaking by or on behalf of the affected Director, Officer, employee or agent to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the Association as authorized in this Article XI.

4. Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of Members or otherwise, and shall continue as to a person who has ceased to be a Director, Officer, employee or agent, and shall inure to the benefit of the heirs and personal representatives of such person.

5. Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee or agent of the Association, or is or was serving, at the request of the Association, as a Director, Officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability under the provisions of this Article.

6. Amendment. Notwithstanding anything herein to the contrary, the provisions of this Article XI may not be amended without the prior written consent of all persons whose interest would be adversely affected by such amendment.

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ARTICLE XII DISSOLUTION

Unless the Board of Directors determines that because of a conflict of interest or other substantial reason it should not make any recommendation, the Board of Directors must adopt a resolution recommending that the Association be dissolved and directing that the question of such dissolution be submitted to a vote at a meeting of Members entitled to vote thereon, which may be either an annual or special meeting. Written notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation must be given to each Member (as of thirty (30) days prior to the date of mailing such notice) entitled to vote at such meeting. This notice shall be sent at least ten (10) days and not more than sixty (60) days before the date named for the meeting to each Member by United States mail, or by telegram, charges prepaid, to his address appearing on the books of the Association. A resolution to dissolve the corporation shall be adopted upon receiving eighty percent (80%) of the votes which Members present at such meeting or represented by proxy are entitled to cast. At any time after dissolution is authorized, the corporation may dissolve by delivering to the Department of State articles of dissolution for filing.

In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the Stormwater Management System (as defined in the Declaration) must be transferred to and accepted by an entity that complies with Rule 62-330.310, F.A.C., and Applicant's Handbook Volume I, Section 12.3, and be approved by the District prior to such termination, dissolution or liquidation.

ARTICLE XIII INITIAL REGISTERED OFFICE AND AGENT AND CORPORATE OFFICE

The street address of the initial registered office of the Association is:

127 Palafox Place, Suite 200
Pensacola, FL 32502

The name of the initial registered agent of the Association at said address is:

Stephen R. Moorhead

The address of the principal corporate office of the Association is:

1820 Escambia Avenue
Pensacola, FL 32503

The mailing address of the Association is:

1820 Escambia Avenue
Pensacola, FL 32503

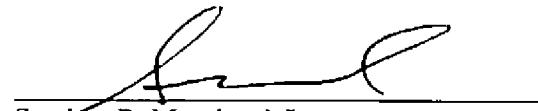
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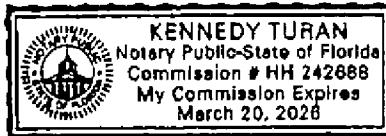
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IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation on this 2nd day of November, 2022.

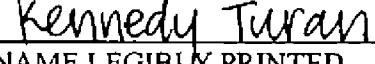

Stephen R. Moorhead, Incorporator

STATE OF FLORIDA
COUNTY OF ESCAMBIA

THE FOREGOING INSTRUMENT was acknowledged before me by means of physical presence or online notarization on this 2nd day of November, 2022, by Stephen R. Moorhead as Incorporator of Sutton Place Property Owners' Association, Inc., a Florida not-for-profit corporation who is personally known to me or has produced _____, as identification.



(SEAL)


SIGNATURE OF NOTARY
NAME LEGIBLY PRINTED,
TYPEWRITTEN OR STAMPEDMy Commission Expires: March 20, 2028

To: 8506176381

From: Kennedy Turan

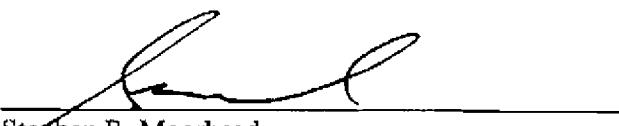
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ACCEPTANCE OF APPOINTMENT AS REGISTERED AGENT

I, Stephen R. Moorhead, hereby accept the appointment as registered Sutton Place Property Owners' Association, Inc. as set forth in its Articles of Incorporation being filed simultaneously herewith.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 21 day of November, 2022.



Stephen R. Moorhead

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EXHIBIT "C"
AMENDED AND RESTATED BYLAWS

**AMENDED AND RESTATED BYLAWS OF
SUTTON PLACE PROPERTY OWNERS' ASSOCIATION, INC.**
(a corporation not-for-profit)
under the laws of the State of Florida

**SUBSTANTIAL REWORDING OF BYLAWS –
SEE CURRENT BYLAWS FOR PRESENT TEXT**

These Amended and Restated Bylaws of **Sutton Place Property Owners' Association, Inc.** (hereinafter "Association"), a nonprofit corporation, incorporated under the laws of the State of Florida are hereby created and adopted pursuant to the Articles of Incorporation of the Association filed in the Florida Department of State, Division of Corporations (the "Articles of Incorporation"). The Association has been organized for the purpose of providing various services and benefits with regard to the Subdivision (as that term is defined in the Articles of Incorporation).

Definitions. For convenience, these Amended and Restated Bylaws shall be referred to as the "Bylaws" and the Articles of Incorporation of the Association as the "Articles." The other terms used in these Bylaws shall have the same definition and meaning as those set forth in that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions of Sutton Place (the "Declaration"), unless herein provided to the contrary, or unless the context otherwise requires.

**ARTICLE I
ASSOCIATION**

1.1 **Office.** The principal office of the Association shall be 400 Schubert Drive, Pensacola, Florida 32504, or such other place as shall be selected by the Board of Directors.

1.2 **Fiscal Year.** The fiscal year of the Association shall be the calendar year.

**ARTICLE II
MEMBERS**

2.1 **Qualification.** The members of the Association shall be determined in accordance with the Articles of Incorporation. "Owner", as used herein, shall mean and refer to the record owner, whether the same shall consist of one or more persons or entities, of the fee simple title to any platted lot in the Subdivision (a "Lot"), but excluding those having such interest merely as security for the performance of the obligation.

2.2 **Voting Rights.** All Owners shall be entitled to one (1) vote for each Lot owned.

2.3 **Designation of Voting Members.**

2.3.1 If a Lot is owned by more than one (1) person, the person entitled to cast the vote or votes for the Lot may be designated by a certificate signed by all of the record owners of the Lot and filed with the Secretary of the Association. If a Lot is owned by a corporation, partnership, trust, company or other legal entity, the person entitled to cast the vote or votes for the Lot may be

designated by a certificate of appointment signed by a duly authorized representative of the 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 a change in the ownership of the Lot, and a certificate may be revoked by any owner of an interest in the Lot. Any such revocation shall be in writing and signed by any owner of an interest in the Lot or a duly authorized representative of the entity, as the case may be, and filed with the Secretary of the Association.

2.3.2 If a Lot is owned by more than one (1) person and such owners do not designate a voting Member as required hereinabove, the following provisions shall apply:

2.3.2.1 If more than one (1) such owner is present at any meeting, and said owners are unable to concur on a decision on any subject requiring a vote, said owners shall lose their right to vote on that subject at that meeting; however, said vote or votes shall be included in the determination of the presence of a quorum.

2.3.2.2 If only one (1) such owner is present at a meeting, such person attending shall be entitled to cast the vote or votes pertaining to the Lot.

2.3.2.3 If more than one (1) such owner is present at the meeting and said owners concur, any one (1) such owner may cast the vote or votes for the Lot.

2.4 Restraint Upon Alienation of Assets. A member shall have no vested right, interest, or privilege of, in, or to the assets or funds of the Association, or any right, interest or privilege which may be transferable or inheritable, or which shall continue after his membership ceases, except as an appurtenance to the ownership of his Lot.

2.5 Change of Membership. A change of membership in the Association shall be established by recording in the public records of Escambia County, Florida, a deed or other instrument establishing a record title to a Lot (the "Record Property") and the delivery to the Association of a copy of such recorded instrument, with the owner(s) designated by such instrument thereby becoming member(s) of the Association (the "Record Property Owner(s)"). The membership of the prior Record Property Owner shall be thereby terminated, provided he is not an owner of other Record Properties in the Subdivision. Any change in ownership shall be subject to the Governing Documents, including the Declaration.

ARTICLE III MEMBERS' MEETINGS

3.1 Place. All meetings of members of the Association shall be held at such place within the County of Escambia, Florida, as may be stated in the notice of the meeting.

3.2 Membership List. A roster of Members of the Association, arranged alphabetically, shall be maintained by the Secretary, or if so delegated, by the Association's manager. Such list shall be part of the official records of the Association, open to inspection by Members. It is the responsibility of Members to timely notify the Secretary or Association manager of changes in mailing address and ownership of Lots.

3.3 Regular Meetings:

3.3.1 After Turnover, regular or annual meetings of the members of the Association shall be held in October or November of each year, to the extent reasonably possible and as determined by the Board of Directors.

3.3.2 Notice of a meeting of Members stating the time and place and the purpose(s) for which the meeting is called shall be given by the President or Secretary or their designee. A copy of the notice shall be posted at a conspicuous place within the Subdivision. The notice of the annual meeting shall be hand delivered or sent by mail to each Owner, unless the Owner waives in writing the right to receive notice of the annual meeting by signing a waiver of notice, either before or after the meeting, or unless the Owner has consented to receive electronic notices in accordance with the Act. The delivery or mailing shall be to the address of the Member as it appears on the Association's roster of Members, unless otherwise required by the Act. The posting and mailing of the notice shall be not less than fourteen (14) days, nor more than sixty (60) days, prior to the date of the meeting. Proof of posting or hand delivery may be given by affidavit, and proof of mailing of the notice may be given by retention of post office receipts, or by affidavit. Notice of an annual meeting need not, but may, include an agenda. Notice of a special meeting of the Members must include a description of the purpose or purposes for which the meeting is called.

Notice of Member annual or special meetings may be waived before or after the meeting. The attendance of any Member (or person authorized by proxy or valid power of attorney to vote for such member) shall constitute such Member's waiver of notice of such meeting, except when his (or his authorized representative's) attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

3.4 Special Meetings:

3.4.1 Special meetings of the members for any purpose may be called at any time by the President, and shall be called by the President or Secretary at the request, in writing, of either a majority of the Board of Directors or twenty percent (20%) of the Members. Such request shall state the purpose of the requested meeting.

3.4.2 Business transacted at all special meetings shall be confined to the objects stated in the notice thereof.

3.5 Attendance. Members may attend meetings in person or by proxy. Special and Annual Meetings may also, at the election of the Board, be held by telephonic or video-conferencing means that will allow Members the ability to participate and communicate adequately with each other during the meeting. Such telephonic or video-conferencing participation may be counted as physical presence for quorum and other purposes with reasonable pre-meeting measures taken to confirm the eligibility of the participant as a Member in good standing and/or the holder of a Member's proxy.

3.6 Waiver of Notice. Whenever any notice is required to be given to any Member under the provisions of the Governing Documents or Florida law, a waiver thereof in writing signed by the

person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

3.7 Proxies. At any meeting of the members of the Association, each member shall be entitled to vote in person or by proxy. However, no proxy shall be valid unless it is filed with the Secretary prior to a meeting. Proxies are only valid for the particular meeting designated therein, or a valid continuance of the meeting for no more than 90 days. No proxy vote may be cast on behalf of a member who is present at a meeting.

3.8 Vote Required to Transact Business. When a quorum is present at any meeting, the holders of a majority of voting rights shall decide any question brought before the meeting. If the question is one which requires more than a majority vote by express provision of any statute, the Articles of Incorporation, the Declaration or these Bylaws, the express provision shall govern and control the number of votes required. As used in these Bylaws, the Articles or the Declaration, the terms "majority of the Members" shall mean a majority of the votes of Members present and not a majority of the Members themselves and shall further mean, irrespective of the number of Members physically present, more than 50% of the then total authorized votes present in person or by proxy and voting at any meeting of the Members at which a quorum shall have been attained. Similarly, if some greater percentage of Members is required herein or in the Declaration or Articles, it shall mean such greater percentage of the votes of Members and not of the Members themselves. In all cases where reference is made to percentage of the vote of Members, percentage of the Members, or percentage of the Members for purposes of determining the vote thereof, the percentage stated shall mean the percentage of the voting rights of the members.

3.9 Quorum. Thirty (30%) percent of the total number of voting rights of the Association present in person or represented by proxy, shall constitute a quorum at all meetings of the members for the transaction of business, except as otherwise provided by statute or these Bylaws. If a quorum is not present at any meeting, the members may adjourn the meeting from time to time, but for no more than 90 days, without notice other than announcement at the meeting, until a quorum is present. Any business may be transacted at any adjourned meeting until a quorum is present. Any business may be transacted at any adjourned meeting which could have been transacted at the meeting called. There is no quorum requirement for an election; however, at least 20 percent of all eligible Members must cast a ballot in order to have a valid election.

3.10 Voting Owner. If a Lot is owned by one person, his or her right to vote shall be established by the most recent recorded deed for the Lot. It is the responsibility of the record owner to provide written notice of such ownership and changes in ownership for the Association's roster of Members. If a Lot is owned by more than one person, or jointly by a husband and wife, they may, without being required to do so, designate a voting Member by filing a certificate of voting with the Association prior to casting a vote for an election or any other matter for which Members are authorized to vote. In the event they do not designate a voting member by certificate, the following provisions shall apply:

- (a) If co-owners are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting, and their vote shall not be considered in determining whether a quorum is

present on that subject at the meeting (and the total number of authorized votes in the Association shall be reduced accordingly for such subject only).

- (b) If only one Owner is present at a meeting, in person or by proxy, the person present shall be counted for purposes of a quorum and may cast the Lot vote just as though he or she owned the Lot individually, and without establishing the concurrence of the absent Owner.
- (c) If more than one Owners of a single Lot are physically present at a meeting and concur, either one may cast the single vote for the Lot.

3.10.1 Corporation. If a Lot is owned by a corporation or other entity, the Chairman of the Board, Executive Director, President, Vice President, Secretary, Treasurer, or Member of the entity holding such Membership in the Association, and any like officer of a foreign corporation, whether for profit or not for profit, holding a Membership in the Association, shall be deemed by the Association to have the authority to vote on behalf of the Corporation or other entity and to execute proxies and written waivers and consents in relation thereto, unless before a vote is taken on a waiver of consent is acted upon it is made to appear by certified copy of the Bylaws or Resolution of the Board of Directors or executive committee of the Corporation that such authority does not exist or is vested in some other officer or person. In absence of such certification, the person executing any such proxies, waivers or consents or presenting himself at a meeting as one of such officers of a Corporation shall be for the purposes of this Section conclusively deemed to be duly elected, qualified and acting as such officer and be fully authorized. In the case of conflicting representation, the corporate Member shall be deemed to be represented by its senior officer, in the order first stated in this subsection.

3.10.2 Any document requiring the signature of a Member, except election ballots, may be accomplished utilizing DocuSign or any other mutually acceptable similar online, electronic or digital signature technology and such shall be deemed original signatures.

3.10.3 Only Members of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other Members shall produce adequate evidence, as provided above, of their interest and shall waive in writing notice of such meeting.

3.10.4 Proxies. A proxy may be made by any person entitled to vote but shall only be valid for the specific meeting for which originally given and any lawfully adjourned and reconvened meetings thereof. In no event shall any proxy be valid for a period longer than 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 person executing it. A proxy must be dated, must state the date, time, and place of the meeting for which it was given, and signed by the person authorized to cast the vote for the Lot (as above described) and filed with the Secretary before the appointed time of the meeting, or before the time during the meeting when the vote is called. Holders of proxies shall be limited to individual Owners or the authorized owner, officer, director or manager of an Owner entity. If the proxy form

expressly so provides, any proxy holder may appoint, in writing, a substitute, who is a Member, to act in his place.

An executed facsimile appearing to have been transmitted by the proxy giver, or a photographic, photostatic, facsimile or equivalent reproduction of a proxy, delivered, mailed or transmitted electronically is a sufficient proxy. Owners may retroactively cure any alleged defect in a proxy by signing a statement ratifying the owner's intent to cast a proxy vote and ratifying the vote cast by his or her proxy.

3.10.5 Adjourned Meetings. Adjournment of an Annual or Special meeting to a different date, time, or place must be announced at the meeting before an adjournment is taken, or notice must be given of the new date, time, or place pursuant to the notice provision of the Bylaws. If a new record date for the adjourned meeting is or must be fixed, notice of the adjourned meeting must be given to persons who are entitled to vote and are Members as of the new record date but were not Members as of the previous record date. If any proposed meeting cannot be organized because a quorum has not been attained, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting. Except as provided by law, proxies given for the adjourned meeting shall be valid for the newly scheduled meeting unless revoked for reasons other than the new date of the meeting.

3.11 Order of Business. The order of business at annual members' meetings and, as far as practicable, at all other members' meetings, shall be:

1. Call to order.
2. Calling of roll and certifying of proxies.
3. Proof of notice of meeting or waiver of notice.
4. Reading and disposal of any unapproved minutes.
5. Reports of officers.
6. Reports of committees.
7. Election of Directors.
8. Unfinished business.
9. New business.
10. Adjournment.

Such order may be waived or modified by direction of the chairman.

3.12 Minutes of Meeting. Minutes of all meetings of the Members of an Association must be maintained in written form or in another form that can be converted into written form within a reasonable time. The minutes of all meetings of Members shall be kept in a book available for inspection by Members or their authorized representatives or board members at any reasonable time.

The Association shall retain these minutes for a period of not less than seven years, or such other period as required by the Act, as amended from time to time.

3.13. Recording. Any Member may make audio or video recordings of meetings of the Membership. The Board of Directors of the Association may adopt reasonable rules governing the recording of meetings. Notwithstanding the right to record, neither live-streaming nor the posting of any meeting or portion thereof on the Internet, in any form or format, is permitted absent the prior written authorization of the Board of Directors, which authorization may be withheld in the sole discretion of the Board, for any reason and without cause.

3.14 Delinquent Members. If any Assessment or portion thereof imposed against a Member remains unpaid for ninety (90) days following its due date, such Member's voting rights in the Association may be suspended in accordance with the Act until all past due Assessments and other sums then due are paid, whereupon the voting rights shall be automatically reinstated. Such suspension shall be made, if at all, prior to the meeting where votes are counted, or the date written consents are due and tallied. Delinquent Members shall not be eligible to run for or serve on the Board of Directors.

3.15 Action by Written Consent. Action required or permitted to be taken at a Members meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Members entitled to vote with respect to the subject matter thereof. The consent shall have the same force and effect as a unanimous vote and may be stated as such in any filing instrument filed with either the Clerk of the Circuit Court or Secretary of State. Action taken under this Section 3.14 shall be effective on the date the last consenting Member signs the consent, unless the consent specifies a different effective date.

ARTICLE IV DIRECTORS

4.1 Number. The affairs and business of the Association shall be managed by a Board of Directors, consisting of not less than three (3) nor more than five (5) persons. The number of directors shall be determined from time to time upon majority vote and resolution of the Board of directors. No change in the number of directors shall operate to shorten the term of an incumbent director. The number of directors constituting the initial Board of Directors shall be three (3), as designated in the Articles of Incorporation.

4.2 Term. Each director shall be elected to serve a term of one (1) year or until his successor shall be elected and shall qualify.

4.3 Vacancy and Replacement. If the office of any director becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining directors, though less than a quorum, at a special meeting of directors duly called for this purpose, shall choose a successor or successors who shall hold office for the unexpired term in respect to which such vacancy occurred.

4.4 Election of Directors. Election of directors shall be conducted in the following manner.

4.4.1 The first notice of meeting and request for director nominations shall be mailed not less than 60 days prior to the annual meeting. Nominations for Directors shall be submitted in writing or email by the candidate or another Member, not less than 40 days in advance of the annual meeting and all eligible candidates shall be listed in alphabetical order on a ballot to be mailed to Owners. All candidates shall be notified of receipt of their nomination, with the opportunity to withdraw their candidacy prior to the printing and mailing of ballots. No nominations shall be taken from the floor at the meeting.

4.4.2 The election shall be by secret written ballot and decided by a plurality of the votes cast for each candidate.

4.4.3 All Members of the Association shall be eligible to serve on the Board of Directors unless otherwise disqualified pursuant to the Act and may nominate himself or herself in advance as a candidate for the Board. Nominations from the floor at the Members meeting are not to be permitted.

4.4.4 Upon submission of nominations, eligible candidates may submit a one-page information sheet to be included with the mailing of the ballots. Ballots with return envelopes shall be mailed to Owners not less than 14 days prior to the election. The outer envelope shall be addressed to the Association and in the return addresses location, shall provide spaces for the name of the voter, the address or Lot number being voted, and a signature space for the voter.

4.4.5 An election is not required if the number of vacancies equals or exceeds the number of candidates.

4.5 Removal. Any Director elected by the Members may be removed from office with or without cause by the vote or agreement by a majority of all votes of the Membership. The vacancy in the Board so created shall be filled by the Members at the same meeting or at a meeting of the Membership shortly thereafter. The conveyance of all Lots owned by a Director in the Community who owned one or more Lots at the time he or she was elected or appointed (other than appointees of the Declarant) shall constitute the resignation of such Director.

Until a majority of the Directors are elected by the Members other than the Declarant, no Directors named by the Declarant shall be subject to removal by Members other than the Declarant. Directors appointed by the Declarant and Directors replacing them may be removed and replaced by the Declarant without the necessity of any meeting.

4.6 If a vacancy on the Board of Directors results in there being no incumbent Directors, any Member may apply to the Circuit Court within whose jurisdiction the Property lies for the appointment of a receiver to manage the affairs of the Association. At least thirty (30) days prior to applying to the Circuit Court, the Member shall mail to the Association and post in a conspicuous

place in the Property a notice describing the intended action and giving the Association an opportunity to fill the vacancy(ies) in accordance with these Bylaws. If, during such time, the Association fails to fill the vacancy(ies), the Member may proceed with the petition. If a receiver is appointed, the Association shall be responsible for the fees of the receiver, court costs and attorneys' fees. The receiver shall have all powers and duties of a duly constituted Board and shall serve until the Association fills the vacancy(ies) on the Board sufficient to constitute a quorum in accordance with these Bylaws.

4.7 Powers and Duties of Board of Directors. All of the powers and duties of the Association under Florida law shall be exercised by the Board of Directors, or its delegate, subject only to approval by the members when such approval is specifically required. The powers and duties of the directors shall include, but are not limited to, the following:

4.7.1 **Assess.** To make and collect an annual maintenance charge against members to pay the expenses incurred by the Association in carrying out the objects and purposes of the Association.

4.7.2 **Disburse.** To use the proceeds of assessments in the exercise of its powers and duties.

4.7.3 **Enforce.** To enjoin or seek damages from the members for violation of these Bylaws, the Declaration and the terms and conditions of any rules and regulations applicable to the use of the Subdivision or any portion thereof.

4.7.4 **Employ.** To employ and contract with service contractors in connection with carrying out the objects and purposes of this Association.

4.7.5 **Adopt and publish Rules and Regulations** governing the use of the common areas and facilities within the Subdivision, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof.

4.7.6 To maintain a class action, and to settle a cause of action, on behalf of Record Property Owners with reference to the common areas, the roof and structural components of a building or other improvement, and mechanical, electrical and plumbing elements serving an improvement or a building; and to bring an action, and to settle the same, on behalf of two (2) or more of the Record Property Owners their respective interests may appear, with respect to any cause of action relating to the common areas; all as the Board deems available.

4.7.7 To elect the officers of the Association and otherwise exercise the powers regarding officers of the Association as set forth in these Bylaws.

4.7.8 To determine who shall be authorized to make and sign all instruments on behalf of the Association and the Board.

4.7.9. To employ a management agent or manager, at a compensation established by the Board, to perform such duties and services as the Board shall authorize including, but not limited

to, the duties listed in this Section; and such duties so conferred upon the managing agent or manager by the Board of Directors may upon five (5) days notice be revoked, modified or amplified by the majority of the votes of the Directors in a duly constituted meeting.

4.7.10 To take appropriate action to enforce the provisions of the Declaration, any rules and regulations adopted by the Association, and the Bylaws. In connection with same, the Board is authorized to file or defend appropriate suits or request for arbitration filed under any of said instruments, acts or provided for by the laws of Florida.

4.7.11 To employ attorneys, accountants, and other persons or firms reasonably necessary to carry out the provisions of the Declaration, Bylaws and Articles of Incorporation of the Association and the rules and regulations.

4.8 Eligibility. A person who is delinquent in the payment of any fee, fine, or other mandatory obligation to the Association for more than ninety (90) days is not eligible for Board membership. A person who has been convicted of any felony in Florida or in a United States District or Territorial Court, or has been convicted of any offense in another jurisdiction which would be considered a felony if committed in Florida, is not eligible for Board membership unless such felon's civil rights have been restored for at least 5 years as of the date on which such person seeks election to the Board.

4.9 Compensation. The directors shall not be entitled to any compensation for service as directors, but may be reimbursed for authorized out of pocket expenses.

ARTICLE V DIRECTORS MEETINGS

5.1 Organizational Meetings. An organizational meeting to elect officers of each new Board shall be held immediately upon adjournment of the Members' meeting at which they were elected or as soon thereafter as may be practicable. Secret ballots may be used for the election of officers.

5.2 Regular Meetings. 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 telegraph, at least three (3) days prior to the day named for such meeting.

5.3 Special Meetings. Special meetings of the Board may be called by the President on five (5) days notice to each director. Special meetings shall be called by the President or Secretary in like manner and on like notice upon the written request of one-third (1/3) of the directors.

5.4 Notice. Unless in an emergency, notice of a Board meeting shall be posted in a conspicuous place in the Subdivision at least 48 hours in advance. All meetings of the Board must be open to all Members except for meetings between the Board and its attorney with respect to proposed or pending litigation, where the contents of the discussion would otherwise be governed by attorney-client privilege and meetings of the board held for the purpose of discussing personnel matters. Board Members may participate by telephone conference or video conferencing in any

Board meeting, and for meetings open to the Members, shall either, and in the directors' discretion, may provide the telephone and / or video conference participant numbers or link, or have a speaker phone and video equipment available at a location within 30 miles of the Community for Member attendance. An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments.

5.5 Voting. Directors may not vote by proxy or by secret ballot at Board meetings. Notwithstanding the foregoing, officers of the Board may be elected by secret ballot voting.

5.6 Quorum. A quorum at a directors' meeting shall consist of a majority of the entire Board. The acts approved by a majority of those present at a meeting at which a quorum is present, shall constitute the act of the Board, except when approval by a greater number of directors is required by statute or by these Bylaws.

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

5.8 Joinder in Meeting by Approval of Minutes. The joinder of a director in any action taken at a meeting by signing and concurring in the minutes of that meeting shall constitute the presence of such director for the purpose of determining a quorum.

5.9 Presiding Officer. The presiding officer of a directors' meeting shall be the chairman of the Board if such an officer has been elected; and if none, the President of the Association shall preside. In the absence of the presiding officer, the directors present shall designate one of their number to preside.

5.10 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the receipt by said Director of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting, except when his or her attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

ARTICLE VI COMMITTEES AND OFFICERS

6.1 Committees. The Board of Directors, by resolution adopted by a majority of the full Board of Directors, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in such resolution or in the Articles of Incorporation or the Bylaws, shall have and may exercise all of the authority of the Board of Directors, except that *no such committee shall have the authority to:*

- (a) Approve or recommend to members actions or proposals required by the Governing Documents or the Act to be approved by members;
- (b) Fill vacancies on the Board of Directors or any committee thereof; or
- (c) Adopt, amend, or repeal the Bylaws.

Each committee must have two or more members who serve at the pleasure of the Board of Directors. The Board, by resolution adopted, may designate one or more director(s) as alternative members of any such committee who may act in the place instead of any absent member at any meeting of such committee.

6.2 Architectural Review Committee. The Architectural Review Committee (herein “ARC”), once appointed by the Board, shall consist of at least three (3) members appointed and removed by the Board. Alternatively, in the Board’s discretion, the Board from time to time may constitute itself as the ARC. Notwithstanding the foregoing, until Turnover, the Declarant may, at its election, serve in the place of the ARC in such manner and according to procedures and standards determined by the Declarant, in its sole discretion.

6.2 Officers. The officers of the Association shall be a President, Vice President, Treasurer and Secretary, each of whom shall be elected at organization meeting of the Board of Directors following each annual Members’ meeting. The Board may appoint such other officers and agents that it may deem necessary, who shall hold office at the pleasure of the Board and have such authority and perform such duties as from time to time may be prescribed by said Board.

The initial officers are as follows:

Brad Morse - President
Olesya Chatraw - Vice President
Sophie Sumner - Secretary/Treasurer

6.3 Qualification. Except with respect to the office of the Secretary, no person shall be entitled to hold office except a member of the Association. The President and Vice President must be members of the Board.

6.4 Term. The officers of the Association shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board may be removed at any time by the affirmative vote of sixty-seven percent (67%) of the voting interests of the members of the Association.

6.5 President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the members and directors; shall be an ex-officio member of all standing committees; shall have general management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect.

6.6 Secretary.

6.6.1 The Secretary shall keep the minutes of the members' meetings and of the Board of Directors' meetings in one or more books provided for that purpose. Resolutions shall be maintained in one such minute book.

6.6.2 The Secretary shall see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law.

6.6.3 The Secretary shall be custodian of the corporate records and of the seal of the Association.

6.6.4 The Secretary shall keep a register of the post office address of each member, which shall be furnished to the Secretary by such member.

6.6.5 In general, the Secretary shall perform all duties incident to the office of the Secretary and such other duties as may be assigned to him by the President or by the Board of Directors.

6.7 Vice President. The Vice President shall be vested with all the powers and required to perform all the duties of the President in his absence, and such other duties as may be prescribed by the Board of Directors.

6.8 Treasurer. The Treasurer shall be vested with all powers, and shall be required to perform all duties, as may be prescribed by the Board of Directors.

6.9 Vacancies. If any office becomes vacant by reason of death, resignation, disqualification or otherwise, the remaining directors by a majority vote may choose a successor or successors who shall hold office for the unexpired term.

6.10 Resignations. Any director or other officer may resign his office at any time. Such resignation shall be made in writing, to the Secretary, and shall take effect at the time of its receipt by the Association, unless some time be fixed in the resignation, and then from that date. The acceptance of a resignation shall not be required to make it effective.

6.11 Compensation. The compensation, if any, of all employees of the Association shall be fixed by the Directors.

ARTICLE VII
LIABILITY

7.1 Liability. The Association assumes no responsibility for injuries sustained by or damages resulting from the acts or omissions of Members or contractors of the Association.

7.2 Conflicts of Interest. No contract or other transaction between the Association and one or more of its directors, officers or any other corporation, firm, association or entity in which

one or more directors or officers of the Association are directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest. Any director of the Association, or any corporation, firm, association or entity of which any director or officer of the Association is a director or officer or is financially interested, may be a party to, or may have a pecuniary or other interest in such contract or transaction shall be disclosed or known to the Association Board at the meeting of the Association Board or a committee thereof which authorizes, approves or ratifies such contract or transaction and, if such fact shall be disclosed or known, any director or officer of the Association so related or interested. Any director or officer of the Association may vote on any contract or other transaction between the Association and any affiliated corporation without regard to the fact that he or she is also a director or officer of such affiliated corporation.

ARTICLE VIII
AMENDMENT OF BYLAWS

8.1 Bylaws. The Bylaws of the Association may be altered, amended or repealed by a majority vote of the Directors.

ARTICLE IX
CONFLICT

9.1. Conflict. In the event there shall exist a conflict between these Bylaws and the Articles of Incorporation, the Articles of Incorporation shall govern. In the event there shall exist a conflict between these Bylaws and the Declaration, the Declaration shall govern.

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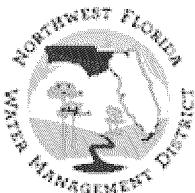
IN WITNESS WHEREOF, we, being all of the directors of the SUTTON PLACE PROPERTY OWNERS' ASSOCIATION, INC., have hereunto set our hands this 7 day of MARCH, 2023, and certify that these are the duly adopted Amended and Restated Bylaws of Sutton Place Property Owners' Association, Inc.


Brad Morse


Olesya Chatraw


Sophie Sumner

EXHIBIT "D"
PERMIT



Northwest Florida Water Management District

700 U.S. Highway 331 South, DeFuniak Springs, FL 32435

Brett J. Cyphers
Executive Director

ERP: (850) 951-4660 • Fax: (850) 892-8007
Wells: (850) 951-4661

August 17, 2021

Ronald Johnson
Sutton Place Developers, Inc
1820 Escambia Ave.
Pensacola, FL 32503

RE: Notice of Final Agency Action - Approval
Individual Environmental Resource Permit
Project Number: IND-033-300530-1
Permit Name: Sutton Place

Dear Sir/Madam:

Enclosed is the approved individual Environmental Resource Permit (ERP) for the above referenced project as authorized on August 17, 2021 by the Northwest Florida Water Management District.

Please be sure to read the enclosed permit and all exhibits in their entirety, paying close attention to the permit conditions in Exhibit A that require you to perform maintenance activities on your stormwater system and to have inspections performed by a Registered Professional at specified times throughout the life of the stormwater system.

Please be advised that you are required to fully execute and submit the following documents:

- "Construction Commencement Notice" [Form 62-330.350(1)] - Submitted to the District no later than 48 hours prior to commencement of any part of the activity authorized by the enclosed permit.
- "As-Built Certification and Request for Conversion to Operational Phase" [Form 62-330.310(1)] Submitted to the District no later than 30 days after the activity has been completed.

Copies of these and other ERP forms are attached and are also available for download on the District website at
<http://www.nwfwater.com/Permits/Environmental-Resource-Permits/Application-Forms>

Please be advised that the District **has not** published a notice in the newspaper of local circulation advising the public that a permit has been issued for this activity. Publication, using the District form, notifies the public of their rights to challenge the issuance of this permit. If proper notice is given by publication, third parties have a 21-day time limit to file a petition opposing the issuance of the permit. If you do not publish, a party's right to challenge the issuance of the permit may extend indefinitely. If you wish to have certainty that the period for filing such a challenge is closed, then you may publish, at your expense, such a notice in a

GEORGE ROBERTS
Chair
Panama City

JERRY PATE
Vice Chair
Pensacola

JOHN W. ALTER
Malone

GUS ANDREWS
DeFuniak Springs

TED EVERETT
Chitley

NICK PATRONIS
Panama City

KELLIE RALSTON
Tallahassee

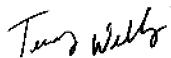
ANNA UPTON
Tallahassee

newspaper of general circulation. A sample notice form is attached for your information. If you choose to publish such a notice, please submit a copy to the District for our records.

The issuance of an Environmental Resource Permit for this activity does not eliminate the need to obtain all necessary permits or approvals from other agencies.

Should you have any questions regarding your permit or its conditions, please contact your permit reviewer, Erica Roberts, at (850) 951-4660 or by e-mail: Erica.Roberts@nwfwater.com, Ted Reese, CWE, at (850) 951-4660 or by e-mail: Ted.Reese@nwfwater.com and Duke N. Le, E.I., at (850) 951-4670 or by e-mail: Duc.Le@nwfwater.com

Sincerely,



Terry Wells
Division of Regulatory Services; ERP Bureau Chief

cc:

Consultant:

Alex R Stierwalt
Hammond Engineering, Inc.
3802 North 'S' Street
Pensacola, FL 32505

Thomas G Hammond
Hammond Engineering, Inc
3802 North 'S' Street
Pensacola, FL 32505

Enc:

Environmental Resource Permit Number: IND-033-300530-1
Construction Commencement Notice [Form 62-330.350(1)]
As-Built Certification and Request for Conversion to Operational Phase [Form 62-330.310(1)]
Notice of Rights
Sample Newspaper Notice

**NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT
INDIVIDUAL ENVIRONMENTAL RESOURCE PERMIT**

PERMIT NO: IND-033-300530-1 DATE ISSUED: August 17, 2021

PROJECT NAME: Sutton Place

CONSTRUCTION PHASE EXPIRATION DATE: August 17, 2026

A PERMIT AUTHORIZING:

A new residential development located at 310 West Roberts Road in Pensacola, (Escambia County). The approximately 9.04-acre development will consist of the construction of a single-family subdivision with associated infrastructure that includes a mail kiosk, private roadway (to be known as Sutton Pace Drive), sidewalks, a cul-de-sac, and driveway connection to West Roberts Road right-of-way. Stormwater runoff will be conveyed and directed by drainage inlets within the proposed roadway toward a dry retention pond with sand chimney located near the southwest corner of the project site. The pond is designed to serve approximately 9.04 acres as well as approximately 3.13 acres of offsite drainage entering from the north and the east boundaries. The remaining 0.07 acres of the project site will be undisturbed. The dry retention pond is designed with a control structure located on its south side. The control structure will consist of an FDOT modified Type C Inlet that consist of an attached skimmer set at approximate bottom elevation of 123.67 feet, an overflow inlet and grate (top of structure) set at an approximate elevation of 124.00 feet, and the same mentioned attached skimmer also set at an approximate top elevation at 124.33 feet. The control structure is designed to discharge into to the existing underground drainage system within the West Roberts Road right-of-way. This permit does not authorize impacts to wetlands or other surface waters. The surface water management system is in accordance with the approved plans prepared by Hammond Engineering, Inc.

LOCATION:

Section(s): 27

Township(s): 1N

Range(s): 31W

Escambia County

ISSUED TO:

Sutton Place Developers, Inc.
1820 Escambia Ave.
Pensacola, FL 32503

Permittee agrees to hold and save the Northwest Florida Water Management District and its successors harmless from any and all damages, claims, or liabilities which may arise from permit issuance. Said application, including all plans and specifications attached thereto, is by reference made a part hereof.

This permit does not convey to any permittee any property rights nor any rights or privileges other than those specified herein, nor relieve the permittee from complying with any law, regulation or requirement affecting the rights of other bodies or agencies. All structures and works installed by permittee hereunder shall remain the property of the permittee.

This permit is issued pursuant to Part IV of Chapter 373, Florida Statute (F.S.), and Chapter 62-330, Florida Administrative Code, (F.A.C.), and may be revoked, modified or transferred at any time pursuant to the appropriate provisions of Chapter 373, Florida Statutes.

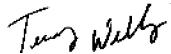
This permit also constitutes certification compliance with water quality standards under Section 401 of the Clean Water Act, 33 U.S. Code 1341.

PERMIT IS CONDITIONED UPON:

See conditions on attached "Exhibit A", dated August 17, 2021

AUTHORIZED BY: Northwest Florida Water Management District
Division of Resource Regulation

By:



Terry Wells
Division of Regulatory Services; ERP Bureau Chief

"EXHIBIT A"

CONDITIONS FOR ISSUANCE OF PERMIT NUMBER IND-033-300530-1
Sutton Place
DATED August 17, 2021

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.
2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.
3. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (Florida Department of Environmental Protection and Florida Department of Transportation June 2007), and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual* (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), which are both incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice," [October 1, 2013], incorporated by reference herein (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02505>), indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. If available, an Agency website that fulfills this notification requirement may be used in lieu of the form.
5. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.
6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:
 1. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex – "Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit" [Form 62-330.310(3)]; or

2. For all other activities – “As-Built Certification and Request for Conversion to Operational Phase” [Form 62-330.310(1)].
3. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.

7. If the final operation and maintenance entity is a third party:

1. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as- built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.3 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
2. Within 30 days of submittal of the as- built certification, the permittee shall submit “Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity” [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.

8. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.

9. This permit does not:

1. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
2. Convey to the permittee or create in the permittee any interest in real property;
3. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
4. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee

10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.

11. The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.

12. The permittee shall notify the Agency in writing:

1. Immediately if any previously submitted information is discovered to be inaccurate; and
2. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or

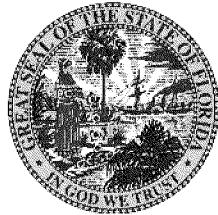
commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase

13. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.
14. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.
16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.
17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.
18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with subsection 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.
19. **Record-keeping.** The permittee shall be responsible for keeping records documenting that relevant permit conditions are met. This documentation shall include, at a minimum, the date of each inspection, the name and qualifications of the inspector, any maintenance actions taken, and a determination by the inspector as to whether the system is operating as intended. Inspection documentation must be readily available and shall be submitted annually to the District by the anniversary date of the permit.
20. Once project construction has been deemed complete, including the re-stabilization of all side slopes, embankments, and other disturbed areas, and before the transfer to the Operation and Maintenance phase, all obsolete erosion control materials shall be removed.

21. Grassed areas of the retention system shall be fertilized only as needed to maintain vegetation, and shall be mowed regularly in order to be kept at a manageable length as required for system functionality, maintenance, and safety.
22. Percolation performance shall be evaluated within the pond at least every third year. If there is evidence of inadequate percolation, the pond bottom must be re-scarified or deep-raked to restore percolation characteristics. If reworking the pond bottom fails to restore adequate percolation, additional retention area restoration shall be performed as follows:
 - a. Remove the top layer of the retention area bottom material to a depth of 2 to 3 inches and scarify or deep-rake the excavated bottom.
 - b. Replace excavated bottom material with suitably permeable material and restore the pond bottom to design grade.
23. **Inspections by the Permittee.**
 - The stormwater system shall be inspected periodically for accumulation of debris and trash. Accumulations of debris and trash that negatively affect the function of the system shall be removed upon discovery.
 - The stormwater system shall be inspected periodically for silt accumulation. Accumulations of silt that negatively affect the function of the system shall be removed.
 - The overflow weir and skimmer, if applicable, shall be inspected annually to confirm that it is free-flowing and clear of debris.
24. **Inspections by a Registered Professional.** The stormwater management system shall be inspected by a registered professional to evaluate whether the system is functioning as designed and permitted. Percolation performance should specifically be addressed. The Registered Professional may record his inspection on Form No 62-330.311(1), Operation and Maintenance Inspection Certification or may provide his evaluation in any other format; however any report must be signed and sealed by the Registered Professional. Submittal of the inspection report to the District shall occur within 30 days of the inspection. Inspections shall be made by the Registered Professional in accordance with this schedule:
 - On the first anniversary of the date of conversion to Operation and Maintenance Phase.
 - Every fifth year on the anniversary of conversion to Operation and Maintenance phase, after the first year of successful operation.
25. **Reporting by a Registered Professional.** Within 30 days of any failure of a stormwater management system or deviation from the permit, a report shall be submitted to the District on Form 62-330.311(1), Operation and Maintenance Inspection Certification, describing the remedial actions taken to resolve the failure or deviation. This report shall be signed and sealed by a Registered Professional.
26. This permit does not authorize the permittee to cause any adverse impact to or "take" of state listed species and other regulated species of fish and wildlife. Compliance with state laws regulating the take of fish and wildlife is the responsibility of the owner or applicant associated with this project. Please refer to Chapter 68A-27 of the Florida Administrative Code for definitions of "take" and a list of fish and wildlife species. If listed species are observed onsite, FWC staff are available to provide decision support information or assist in obtaining the appropriate FWC permits. Most marine endangered

and threatened species are statutorily protected and a "take" permit cannot be issued. Requests for further information or review can be sent to FWCCConservationPlanningServices@MyFWC.com.

27. Negative impacts to wetlands or other surface waters as a result of construction shall be reported immediately to the Northwest Florida Water Management District, 700 South U.S. Highway 331, DeFuniak Springs, FL 32435, Phone: (850) 951-4660. Corrective action shall be taken as soon as practicable to restore the impacted areas



NOTICE OF RIGHTS



Northwest Florida Water Management District
152 Water Management Drive, Havana, FL 32333-4712
(850) 539-5999 Fax (850) 539-2693
www.nwfwater.com

The following information addresses procedures to be followed if you desire an administrative hearing or other review of agency action.

PETITION FOR FORMAL ADMINISTRATIVE PROCEEDINGS

Any person whose substantial interests are or may be affected by the action described in the enclosed Notice of Agency Action, may petition for an administrative hearing in accordance with the requirements of section 28-106.201, Florida Administrative Code, or may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes, before the deadline for filing a petition. Pursuit of mediation will not adversely affect the right to administrative proceedings in the event mediation does not result in a settlement. Petitions for an administrative hearing must be filed with the Agency Clerk of the Northwest Florida Water Management District, 81 Water Management Drive, Havana, Florida 32333-9700 by the deadline specified in the attached cover letter. Failure to file a petition within this time period shall constitute a waiver of any rights such person may have to request an administrative determination (hearing) under section 120.57, Florida Statutes, concerning the subject permit application. Petitions which are not filed in accordance with the above provisions are subject to dismissal.

DISTRICT COURT OF APPEAL

A party who is adversely affected by final agency action on the permit application and who has exhausted available administrative remedies is entitled to judicial review in the District Court of Appeal pursuant to section 120.68, Florida Statutes. Review under section 120.68, Florida Statutes, is initiated by filing a Notice of Appeal in the appropriate District Court of Appeal in accordance with Florida Rule of Appellate Procedure 9.110.

SECTION 28-106.201, FLORIDA ADMINISTRATIVE CODE, INITIATION OF PROCEEDINGS

(1) Unless otherwise provided by statute, and except for agency enforcement and disciplinary actions that shall be initiated under Rule 28-106.2015, F.A.C., initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 1/2 by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

Rulemaking Authority 14.202, 120.54(3), (5) FS. Law Implemented 120.54(3) FS. History—New 4-1-97, Amended 9-17-98, 1-15-07, 2-5-13.

NOTICING PUBLICATION INFORMATION

The District's action regarding the issuance or denial of a permit, a petition or qualification for an exemption only becomes closed to future legal challenges from members of the public ("third parties"), if 1) "third parties" have been properly notified of the District's action regarding the permit or exemption, and 2) no "third party" objects to the District's action within a specific period of time following the notification.

Notification of "third parties" is provided through publication of certain information in a newspaper of general circulation in the county where the proposed activities are to occur. Publication of notice informs "third parties" of their right to have a 21-day time limit in which to file a petition opposing the District's action. However, if no notice to "third parties" is published, there is no time limit to a party's right to challenge the District's action. The District has not published a notice to "third parties" that it has taken final action on your application. If you want to ensure that the period of time in which a petition opposing the District's action regarding your application is limited to the time frame state above, you may publish, at your own expense, a notice in a newspaper of general circulation. A copy of the Notice of Agency Action the District uses for publication is attached. You may use this format or create your own, as long as the essential information is included.

If you do decide to publish a Notice of Final Agency Action, please provide the District a copy of the Proof of Publication when you receive it. That will provide us notice that action on this permit application is closed after the 21 days following publication.

Notice of Final Agency Action Taken by the Northwest Florida Water Management District

Notice is given that Environmental Resource permit number IND-033-300530-1 was issued on August 17, 2021 to Ronald Johnson of Sutton Place Developers, Inc. for the construction of a new surface water management system to provide treatment and attenuation for a new residential development located at 310 West Roberts Road in Pensacola, (Escambia County). The approximately 9.04-acre development will consist of the construction of a single-family subdivision with associated infrastructure that includes a mail kiosk, private roadway (to be known as Sutton Pace Drive), sidewalks, a cul-de-sac, and driveway connection to West Roberts Road right-of-way. Stormwater runoff will be conveyed and direct by drainage inlets within the proposed roadway toward a dry retention pond with sand chimney located near the southwest corner of the project site. The pond is designed to serve approximately 9.04 acres as well as approximately 3.13 acres of offsite drainage entering from the north and the east boundaries. Approximately 0.07 acres of the project site will remain undisturbed. The dry retention pond is designed with a control structure located on its south side. The control structure will consist of an FDOT modified Type C Inlet that consist of an attached skimmer set at approximate bottom elevation of 123.67 feet, an overflow inlet and grate (top of structure) set at an approximate elevation of 124.00 feet, and the same mentioned attached skimmer also set at an approximate top elevation at 124.33 feet. The control structure is designed to discharge into the existing underground drainage system within the West Roberts Road right-of-way. The project does not include impacts to wetlands. The project is located at 310 West Roberts Road, Escambia County.

The application file is available online and can be accessed through the District's e-Permitting Portal at:

<https://permitting.sjrwmd.com/nwepermitting/isp/Search.do?theAction=PermitNumSearch>. If you have any questions or are experiencing difficulty viewing the electronic application, please contact us at (850) 951-4660.

A person whose substantial interests are affected by the District permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57, Florida Statutes, or may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes, and Rules 28-106.111 and 28-106.401-404, Florida Administrative Code. Petitions must comply with the requirements of Florida Administrative Code, Chapter 28-106 and be filed with (received by) the District Clerk located at District Headquarters, 81 Water Management Drive, Havana, FL 32333-4712. Petitions for administrative hearing on the above application must be filed within twenty-one (21) days of publication of this notice or within twenty-six (26) days of the District depositing notice of this intent in the mail for those persons to whom the District mails actual notice. Failure to file a petition within this time period shall constitute a waiver of any right(s) such person(s) may have to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., concerning the subject permit. Petitions which are not filed in accordance with the above provisions are subject to dismissal.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the District's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the District on the application have the right to petition to become a party to the proceedings, in accordance with the requirements set forth above.