

SIXTH AMENDMENT TO AND RESTATEMENT OF THE  
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,  
RESERVATIONS, LICENSE AND EASEMENTS  
FOR SIX MILE CREEK SUBDIVISION

This Sixth amendment to and restatement of Declaration of Covenants, Conditions, Restrictions, Reservations, License and Easements for Six Mile Creek Subdivision ("Declaration") is made this 8<sup>th</sup> day of December, 2002 by the Six Mile Creek Subdivision Homeowners Association, Inc., a Florida corporation (hereinafter referred to as "Association"), filed on December 8, 1989 by the State of Florida, as corporation document number N35558. This Declaration was originally made and executed on the 24<sup>th</sup> day of May, 1989 by Jean-Yves Clerc not individually, but solely as Trustee under unrecorded Trust Agreement known as Land Trust No. I-88120 (The Declarant). It was subsequently amended by that certain First Amendment recorded April 18, 1990, in Official Records Book 3055, Page 1040; Second Amendment recorded September 14, 1990 in Official Records Book recorded 3082, page 3147; Third Amendment recorded November 29, 1990 in Official Records Book 3095, Page 4987, Amendment recorded May 1, 1991 in Official Records Book 3123, Page 1395; Amendment recorded October 26, 1992 in Official Records Book, Page 3936; Fourth Amendment recorded August 3, 1993, in Official Records Book 3311, Page 2978; Fifth Amendment recorded September, 1994, in Official Record Book 3419, Page 2809; and Correction to the Fifth Amendment recorded September 30, 1994, in Official Records Book 3425, Page 0388. All previous amendments have been incorporated into this Restatement.

WITNESSETH

WHEREAS, the Association is the record owner of fee simple title to certain real property situated in Brevard County, Florida, which is more particularly described as Six Mile Creek Subdivision, Phase I, recorded in Plat Book 35, Pages 100 and 101, Six Mile Creek Subdivision – Phase II, recorded in Plat Book 36, Page 93, Six Mile Creek Subdivision – Phase III, recorded in Plat Book 37, Pages 40 and 41, and Six Mile Creek Subdivision – Phase IV, recorded in Plat Book 39, Pages 46, 47, and 48, Public Records of Brevard County, Florida (the "Subject Property"); and

WHEREAS, the Association desires to adopt a general and uniform plan for the orderly development and improvement of the Subject Property and for the maintenance of the certain Common Area and easements as hereinafter defined to insure that the Subject Property is developed, improved, used, occupied, maintained and enjoyed as an architecturally, harmonious and desirable residential area which will enhance the general welfare, quality of life, and the property values of all the Owners; and

WHEREAS, the Subject Property is part of and subject to the restrictions, rules and regulations for the development, use and maintenance of Viera East Community (formerly referred to as Viera Southeast Community), the overall mixed use development (the "Community") established by Duda Lands, Inc., (recorded in Official Records Book 3022, Pages 1576 through 1611, Public Records of Brevard County, Florida.

NOW THEREFORE, the Association hereby declares that all the Subject Property shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements and reservations which are for the purpose of protecting the value and desirability of, and which will run with, the Subject Property and be binding on all parties having any right, title or interest in the subject Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

## ARTICLE ONE - DEFINITIONS

For purposes of this Declaration, the following terms shall have the following definitions and meanings:

1.1 “ARC” shall mean and refer to the Architectural Review Committee appointed by the Board of Directors pursuant to Article IV and having the responsibilities set forth therein.

1.2 “Association” shall mean and refer to the SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC., its successors and assigns, to which shall be delegated and assigned the power, authority, duty and obligation: (a) to enforce and administer the covenants, conditions, restrictions, reservations, license and easements governing Subject Property including without limitation the Common Area, Landscape and Wall Easements, Pedestrian Access Easement and Retention Lakes; (b) to collect and disburse all assessments and charges deemed necessary for such maintenance, administration and enforcement; (c) to maintain the Common Area, Landscape and Wall Easements, Pedestrian Access Easement and Retention Lakes including any recreational facilities thereon; and (d) to perform such other services as may be deemed desirable to benefit the Owners all as hereinafter provided.

1.3 “Common Area” shall mean all real and personal property (including improvements thereto) owned by the Association, in fee simple, by virtue of dedication to the Association, or otherwise, for the common use and enjoyment of the Owners.

1.4 “Community” shall mean and refer to Viera East Community, the overall mixed use development established by the Community Developer.

1.5 “Community Association” shall mean and refer to the master association established by the Community Developer pursuant to the Community Declaration, herein after called the Viera East Community Association (VECA).

1.6 “Community Declaration” shall mean and refer to the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for the Viera East Community Association recorded in the Public Records of Brevard County at Official Record Book 3022, Page 1576 through 1611, and all amendments, modification, and supplements thereto and as from time to time recorded in the Public Records of the County.

1.7 “Community Developer” shall mean and refer to Duda Lands, Inc. and its successors and assigns as limited and defined in the Community Declaration.



1.8 "County" shall mean and refer to Brevard County, a political subdivision of the State of Florida, specifically including each and all of its departments and agencies.

1.9 "Six Mile Creek" shall mean and refer to Six Mile Creek Subdivision, the single family residential community planned for and developed on the Subject Property and reflected on the Plats.

1.10 "Declarant" shall mean and refer to Jean-Yves Clerc, not individually, but solely as Trustee under the unrecorded Trust Agreement known as Land Trust No. I-88120, his predecessors in title, successors and assigns if such successors or assigns should acquire more than one lot from the Declarant for the purpose of development.

1.11 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Restrictions, Easements, License and Reservations for Six Mile Creek Subdivision, and all amendments, modifications and supplements thereto as are from time to time recorded among the Public Records of the County.

1.12 "Governmental Regulations" shall mean and refer to all applicable laws, statutes, codes, ordinances, rules, regulations, limitations, restrictions, orders, judgments or other requirements of any governmental authority having jurisdiction over the Subject Property or any improvements constructed or located thereon, including, without limitation, those pertaining to building and zoning.

1.13 "Lake Lots" shall mean and refer to all of the Lots in Phase I, Lots A-1, A-11 through A-18, B-2 through B-13, B-15 through B-18, B-36 through B-42 and D-6; in Phase II, Lots A-26 through A-35, B-1 through B-7, B-9 through B-14, and B-16 through B-29; in Phase III, Lots H-1, H-2, H-4 through H-14, I-1 through I-24, and I-26 through I-33; and Phase IV, Lots E-1, E-2, E-4 through E-15, G-1 through G-17, G-19 through G-21, and G-23 through G-44.

1.14 "Lot" shall mean and refer to any unit, dwelling, home, parcel, tract or numbered plot of land in any stage or phase of or in the overall SIX MILE CREEK SUBDIVISION on file with the County of Brevard with the exception of the Common Area, and/or road right-of-ways as shown or subsequently shown on any recorded subdivision map or stage of the overall properties if dedicated to a public authority or the Association of maintenance. Each lot is subject to assessment and entitles each Owner to voting rights as hereinafter defined.

1.15 "Maintenance Fund" shall mean and refer to a fund composed of the total revenues received by the Association from the Regular assessments, Special assessments, Individual assessments and Lake Lot assessments levied by the Association pursuant to Article VII hereof.

1.16 "Member" and/or "Members" shall mean and refer to all those Owners who are entitled to membership in the Association as provided in Article V hereof.

1.17 "Owner" shall mean and refer to the record Owners, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Subject Property including the



Declarant, its successors and assigns, and contract sellers, but excluding those having an interest in any such Lot, merely as security for the payment of debt or the performance of an obligation.

1.18 “Plat or Plats” shall mean and refer to the plats of Six Mile Creek Subdivision, as recorded in Plat Book 35, Pages 100 and 101, Public Records of Brevard County, Florida (“Plat of PHASE I”), Plat Book 34, Page 93, Public Records of Brevard County, Florida (“Plat of PHASE II”), Plat Book 37, Pages 40 and 41, Public Records of Brevard County, Florida (“Plat of PHASE III”), and Plat Book 39, Pages 46, 47, and 48 Public Records of Brevard Country, Florida (“Plat of PHASE IV”).

1.19 “Person” shall mean and refer to a natural person, firm, corporation, partnership, or any legal entity, public or private.

1.20 “Subject Property” shall mean and refer to all lands included within and comprising Six Mile Creek Subdivision, as described above, on Exhibit A to the Initial Declaration, and also described and depicted on the Plat of PHASE I; the property described in Exhibit A to First Amendment to the Declaration, and also described as depicted on the Plat of PHASE II; the property described in Exhibit A to Second Amendment to the Declaration, and also described and depicted on the Plat of PHASE III; and the property described in Exhibit A to the Third Amendment to the Declaration, and also described and depicted on the Plat of PHASE IV.

1.21 “Surface Water Management System” shall mean and refer to all lands designated on a plat or plats as retention lakes, and other facilities and appurtenances necessary for and comprising the surface water management and drainage system of Six Mile Creek Subdivision, as reflected on the plans therefore on file with and approved by Brevard County and the St. Johns River Water Management District.

## ARTICLE II - REGULATION OF USES

2.1 Residential Use. The Lots shall be used only for residential purposes. No structure shall be erected or permitted to remain on any Lot other than one residential dwelling. No garage shall be used or converted to living quarters. No building or other improvements situated on any Lot shall be rented or leased separately from the rental or lease of the entire Lot.

2.2 Subdivision. No Lot shall be resubdivided, replatted or divided.

2.3 Offensive Activity. No illegal, noxious, unpleasant, unsightly or offensive activity shall be carried on or conducted upon any Lot or on any portion of the Subject Property, nor shall anything be permitted or done thereon which is or may tend to become or cause an annoyance; nuisance, source of embarrassment or discomfort to the neighborhood or Six Mile Creek.

2.4 Household Pets and Livestock. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other usual household pets may be kept; provided that they are not kept, bred, or maintained for any commercial purpose, they are leashed when off the Owner’s premises, and provided that if any of such permitted animals shall,

in the sole and exclusive opinion of the Association, become dangerous or an annoyance or nuisance in the neighborhood or nearby property or destructive of wildlife, they may not thereafter be kept in or on the Lot.

2.5 Storage of Vehicles or Equipment and Garage Doors. No motor vehicle or non-motorized vehicles, recreational vehicle (Class A, B, or C), trailer, travel trailers, boat, marine craft, hovercraft, aircraft, tow truck, machinery or equipment of any kind may be parked or stored on any part of any Lot, easement or right-of-way unless granted written approval by the Board of Directors of the Association or such vehicle or object is completely concealed from public view inside a garage or approved enclosure. Passenger automobiles, passenger vans, motorcycles; or pick-up trucks that are in operating condition, having current license plates, are in daily use as motor vehicles on the streets and highways of the State of Florida, and which do not exceed one-half (1/2) ton capacity are excepted herefrom provided that they shall not be parked in the public right-of-way within the boundaries of Six Mile Creek between the hours of midnight and 7:00 a.m. and they do not bear any commercial signage (with the exception of law enforcement vehicles), insignias, nor openly display materials, equipment, supplies, tools, or the like.

(a) This restriction shall not apply to any vehicle, machinery, or equipment temporarily parked and in use for the construction, repair or maintenance of a house or houses in the immediate vicinity.

(b) Any vehicle parked or stored in violation of these restrictions or in violation of any rules and regulations adopted by the Association concerning the same may be towed away or otherwise removed by or at the request of the Association and at the sole expense of the Owner of such vehicle in violation of these restrictions or such rules and regulations. In the event of such towing or other removal, the Association and its employees or agents shall not be liable or responsible to the Owner of such vehicle for trespass, conversion or damage incurred as an incident to or for the cost of such removal. The towing or removal of such vehicle shall not be viewed as a criminal act or have any civil liability.

(c) All garage doors shall be maintained in operable condition and remain closed, except when ingress, egress or garage area is in use.

2.6 Maintenance. Each Lot and all improvements, including landscaping located thereon, shall at all times be kept and maintained in a safe, clean, wholesome and attractive condition and shall not be allowed to fall into disrepair or become unsafe or unsightly. The Owner of each Lot shall, at his or her own expense, keep such Lot, including any easement areas located on such Lot, free of weeds, tall grass, undergrowth, dead trees, dangerous and/or dead tree limbs, trash and rubbish, and any other unsightly objects. No Lot shall be used or maintained as a dumping ground for rubbish, garbage or debris of any kind. In the event the Owner fails to comply with this Section 2.6 then, after giving the Owner ten (10) days written notice, the Association shall have the right, but not the obligation, to go upon such Lot and to cut and remove tall grass, undergrowth and weeds, and to remove rubbish and any unsightly or undesirable things and objects from the Lot, and to do any other things and perform and furnish any labor necessary or desirable in its judgment to maintain the property in a neat and attractive condition, all at the expense of the Owner of such Lot, which expense shall constitute an



Individual Assessment as provided in Section 7.9 against the Lot. Such entry by the Association upon a Lot shall not be deemed a trespass.

**2.7 Garbage and Trash Containers and Collection.** No garbage, trash containers and their storage areas shall be visible from the street, or any adjacent or neighboring property. All equipment for the storage or disposal of such material shall be kept in clean and sanitary condition. All trash, garbage or other refuse shall be placed for pickup not earlier than the evening preceding pickup, and any and all containers for such trash, garbage or refuse shall be returned no later than the evening of the pickup to their normal location.

**2.8 Burning.** No burning of leaves, trash, rubbish, garbage or other waste materials of any type shall be permitted or conducted on any Lot. Nothing herein contained, however, shall be deemed to prohibit the burning of wood, logs or charcoal in properly constructed or installed fireplaces, barbecue cookers or the like, whether inside or outside of the dwelling located on any lot.

**2.9 Storage Tanks.** No storage tanks, including but not limited to, those for heaters, oil, propane gas, or other liquid, fuels or chemicals, including those used for swimming pools or the like, shall be visible from the street or any adjacent or neighboring property.

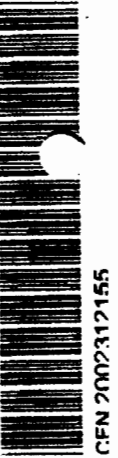
**2.10 Mineral Exploitation.** No exploration, mining, quarrying, or drilling for or exploitation of gas, oil, phosphate or other minerals of any type or kind shall be conducted on any Lot.

**2.11 Laundry & Clothes Drying.** No laundry or clothes drying lines or areas shall be permitted outside on any building on any Lot unless the same shall be placed in the rear yard inside of walls, fences, landscaping screens or similar type enclosures and only on portable laundry dryers. In no event shall any of the same be permitted if visible from any adjacent or neighboring property. Nothing in this section shall be construed, however, to limit the reasonable use of renewable resource energy devices as described in Section 13.04, Florida Statutes.

**2.12 Basketball Equipment.** No basketball hoops or backboards shall be located or attached to the dwelling or garage.

**2.13 Radio Transmission Equipment.** No radio, microwave or other electronic transmission equipment, including ham radios, citizen band radios, walkie talkies and the like, shall be operated on any Lot without the prior written consent of the Association, and such consent, once given, may be revoked by the Association in the event that the operation of any such equipment interferes with ordinary radio and television reception or equipment, including any central cable television, security system, or any other communication system.

**2.14 Pumping.** The Owner of any Lot which includes or is adjacent to a pond, creek, drainage canal, retention area or other body of water shall not draw down such body of water by pumping or draining therefrom.



2.15 Signs. No sign of any kind shall be displayed to public view on any Lot except one (1) professionally prepared sign of not more than thirty-six inches (36") by twenty-four inches (24") placed in the front yard between the sidewalk and the front of the home displaying the names or otherwise advertising the identity of the architect, contractor, subcontractor, real estate broker or the like employed in connection with the construction, installation, alteration, improvement upon the sale or leasing a Lot.

2.16 Drainage. All storm water from any Lot shall drain into or onto contiguous or adjacent street rights-of-way, drainage easements, retention areas or Common Area in accordance with the recorded Plat for Six Mile Creek Subdivision as approved by the County and filed with the St. Johns River Water Management District (the "Established Drainage Plan"). Storm water from any Lot shall not be permitted or allowed to drain or flow unnaturally onto, over, under, across or upon any contiguous or adjacent Lot unless a drainage easement shall exist therefor. No Owner shall be permitted to alter the grade of the Established Drainage Plan for any Lot, or change the direction of, obstruct or retard the flow of surface water drainage. Provided, however, in the event the County or the St. Johns River Water Management District requires the modification of the Established Drainage Plan, the Owner of the affected Lot shall at the Owner's expense make adequate provisions to change the Established Drainage Plat over his Lot.

### ARTICLE III - REGULATION OF IMPROVEMENTS

3.1 Generally. The erection, placement, construction and installation of all improvements on all Lots shall be subject to and governed by the following covenants, conditions, restrictions and reservations;

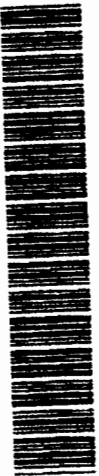
3.2 Plan Approval. No building, or structure or improvement shall be constructed, erected, placed, altered, maintained or permitted, or the erection thereof begun, or changes made in the design thereof after original construction, on any Lot until the construction plans and specifications are approved as set forth in Article IV. The construction of any building, structures or improvements shall also be governed by the Community Declaration, which requires that all such construction;

(i) be in accordance with certain planning and design criteria, and

(ii) be approved prior to the commencement of construction by the Community Residential Review Committee of the Viera East Community Association.

3.3 Construction. The construction of all residential dwellings and other improvements on all Lots must be performed by such builders, general contractors and subcontractors as are licensed in the State of Florida and the County to engage in the business of residential building and construction.

3.4 Construction Time. Upon commencement of construction, such construction shall be prosecuted diligently, continuously and without interruption to completion within a reasonable time; but in no event more than one (1) year from the date of the commencement of such construction. However, the ARC shall have the power and authority to extend the period



permitted for construction, provided that the Owner and general contractor involved make written application for such extension stating the reasons for the requested extension of time and provided further that the ARC, in the exercise of its reasonable discretion, determines that the request is reasonable and the extension is warranted.

3.5 Grades. The grades and slopes in all Lots are fixed so that they may conform to the general plan. Each Owner of a lot has the obligation to maintain the grades and slopes on the lot so as to allow drainage into the Storm Water Management System.

3.6 Character of Homes.

(a) Minimum Square Footage and Height. No dwelling shall have a square foot of living area of less than Twelve Hundred Ninety (1,290) square feet, exclusive of screened areas, open porches, terraces, patios and garages. No dwelling shall exceed two (2) stories in height.

(b) Garages and Carports. No carports shall be placed, erected, constructed, installed or maintained on any Lot. Each single family residential dwelling constructed and maintained on any Lot shall have an attached, enclosed garage which shall correspond in style, color and architecture to the main residence for not less than two (2) standard sized passenger automobiles. All garage doors must be wood, fiberglass or metal. The garage doors are to have wood grain and/or raised panel exterior finish.

(c) Roofs. The roofs of the main body of all buildings and other structures, including the principal residence shall be pitched. No flat roofs shall be permitted without the approval of the ARC. The ARC may, in its discretion, approve flat roofs on part of the main body of a building if architecturally compatible with the remainder of the roof structure, the particular building on which it is to be constructed and all adjacent residence and other structures. All roofing material shall be a minimum of Two Hundred Twenty (220) pounds and the roof may be constructed of either clay, tile, cement tile, slate, asbestos shingle or asphalt construction, or other materials approved by the ARC. All roof colors must be approved by the ARC.

(d) Roof Structures. No antennas, other aerial devices, wind generator appliances or other rooftop installation, projection or structure of any type shall be placed, located, erected, constructed, installed or maintained upon the exterior roof of any building or structure unless the same shall first be approved in writing by the ARC and shall be erected, constructed, installed and maintained on the rear yard side of the roof or otherwise in such manner and at such location that the same shall not be visible from any street or neighboring residence and is capable of providing an "acceptable quality signal" as defined under FCC regulations. It is expressly provided, however, that chimneys, rooftop attic ventilators and fans and solar collector panels, which are designed and architecturally treated in an aesthetically acceptable manner may be permitted if approved by the ARC within its reasonable discretion. With regard to satellite dish receiving devices which are less than one meter in diameter; Multipoint Distribution System ("MDS") receiving devices less than one meter in diameter; and off-the-air television antennas, the following shall apply:





(1) No Owner may maintain on site more than one such receiving device of each kind (for example, two MDS receiving devices would not be permitted, but an MDS device and a less than one meter satellite dish shall be permitted).

(2) An Owner intending to have such a receiving device installed shall provide notice to the ARC in advance of installation, and the notice shall designate the type of antenna to be installed, the name, address and telephone number of the installer, the proposed site of the installation, and whether the proposed location is the sole location allowing the Owner to receive an "acceptable quality signal" as defined under FCC regulations.

(3) Subject always to the requirement that the Owner be provided an "acceptable quality signal", the ARC may designate to the installer a site on the property which, in the ARC's determination, reduces the aesthetic impact of the antenna installation. Subject always to the Owner's right to receive an "acceptable quality signal", the following order of choice as to location shall apply: 1) Interior installation (i.e. attic); 2) back or rear yard, rearward of the residence and away from any site street; 3) side yard, rearward of the front plane of the residence, and on the side not exposed to a side street; 4) side yard exposed to a side street; 5) front yard, forward of the front plane of the residence.

(4) For each given installation, the ARC may direct the Owner to camouflage or modify the installation, provided however that there is no interference with the "acceptable quality signal", and provided further that the camouflage or modification does not impose an "unreasonable expense" on the Owner in light of the total value of the installation.

(5) To the extent possible, for devices described in the last sentence of Section 3.6 (d), within seven (7) working days after the ARC's receipt of the notice from an Owner as described above, the ARC shall respond to the Owner or the Owner's installer, so as to determine the location, construction and aesthetic issues set forth above. The ARC shall expedite this process where devices described in the last sentence of Section 3.6 (d) are concerned, the intention being that any delay in installation be minimized.

(6) The ARC may prohibit any mast(s) rising more than 12 feet above the top of the roofline of the residence, in each case where the ARC demonstrates a documented safety concern. A documented safety concern shall appear in any case where the ARC receives an opinion by a professional engineer licensed in Florida, that the installation or improvement would post an unreasonable risk of property damage or personal injury arising from any inadequacy in the design, location, materials, construction, or guying of the device or improvement.

(7) With regard to any transmitting or receiving device other than those specifically described in the last sentence of Section 3.6 (d), the following provisions shall apply:

(i) The device must be camouflaged as an umbrella; the height of the installation shall not be greater than six feet above ground level; the diameter of the device shall not exceed eight feet in its greatest dimension; and the device shall be obscured by an approved screening on all exposed sides of the Lot.





(ii) No such radio, television, or other transmission receiving or sending device, dish, or antenna not fitting the description set forth in the last sentence of Section 3.6 (d) may be installed or maintained on any lot or the exterior of any structure located on any lot without approval as herein required, and the ARC shall have the power to deny any such installation solely upon safety concerns, aesthetic concerns, or otherwise. Application for approval shall be in writing and shall set forth; the type of device to be installed; the name, address and telephone number of the installer; the site of the proposed installation; and a rough drawing with dimensions depicting the device to be installed.

(e) Screening of Equipment. All heaters, pool equipment, water softeners, air conditioning compressors and other ancillary or mechanical equipment located outside of the residential dwelling shall be suitably screened from the view of street and road right-of-way and adjacent Lots. If vegetation is used for screen, the vegetation must be tall enough and full enough to block the view of the equipment. Absolutely no window or wall air conditioning units shall be permitted.

(f) Exterior Building Materials, Finishes and Colors. All exterior building materials, finishes and colors shall be approved in writing by the ARC. Uncovered or exposed (whether painted or not) concrete or concrete block imitation brick or simulated stone face shall not be permitted as the exterior finish of any building structure or wall except for decorative purposes and then only with written approval of the ARC. The foregoing restriction shall be equally applicable to the initial as well as any subsequent painting of any improvements located on any Lot. The color of doors and door window frames shall be in keeping with the scheme and architecture of the building, and approved in writing by the ARC. Mill finish aluminum door and window frames are prohibited.

(g) Driveways. All driveways, turnarounds and parking areas shall be paved or finished with a concrete, brick or other non-asphalt hard dust-free material approved in writing by the ARC. Each driveway shall extend the entire distance from the garage door to the paved portion of the street or roadway in front of or adjacent to the Lot on which such driveway is constructed. The driveway shall be graded in such a manner as to not impede the drainage within the right-of-way or Lot.

(h) Mirrored Glass. No mirrored glass shall be used on, in or for the windows or doors of any buildings or other improvements constructed upon any Lot.

3.7 Fences, Walls and Hedges. There shall be no fences, walls or hedges permitted on a Lot within the Development unless they comply with the requirements below and the size, material, location and color are approved in writing by the ARC. Fences, walls, or hedges are not permitted on Lots 1 through 18, and Lots 35 through 42, Block B of Phase I; Lots 1 through 29, Block B of Phase II; Lots 1 through 14, Block H and Lots 1 through 34, Block I of Phase III; and Lots 1 through 45, Block G of Phase IV.

(a) Types. The following types of fences and walls are permitted:

(i) "Split rail" and "log rail" fences are subject to approval by the ARC. All wood fences shall remain unpainted to ensure a uniform weathering color.

(ii) "Stockade" and "shadow box" pattern with dog-eared-pickets of rough cypress or pine slats with pressure treated 4"x4" posts and split rail and log rail fences with pressure treated 4"x4" posts and 2"x4" rails, not to exceed six feet in height to avoid appearance of broken elevation. All wood fences shall remain unpainted to ensure a uniform weathering color unless approved by ARC.

(iii) The erection of "chain link" or other metal type fences is specifically and permanently prohibited. However, non-climbing mesh may be attached to log rail and split rail fences after written approval by ARC.

(iv) Walls are subject to approval by the ARC. Building material, finishes, and color shall be consistent with the dwelling as to preserve and enhance property values.

(b) Heights, Perimeter and Location. Fences, walls and hedges not in excess of six feet (6') in height, may be installed within the perimeter of a Lot, provided that no fence may be constructed forward of Sixty feet (60') from the front of the property line with a landscape buffer.

(c) Landscape Buffers. Landscape buffers may be required on the outside of any privacy fences and walls by the ARC in its sole discretion at the Owner's expense.

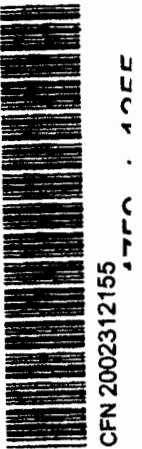
(d) Installation and Maintenance. All fences must be installed with the posts on the inside and must have landscape buffers, as may be required herein. All fencing, walls, and landscape buffers shall be maintained in good condition by the Owner.

3.8 Swimming Pools and Screens. No swimming pool of the so-called "above-ground" type shall be erected on any Lot. Any below ground swimming pools installed must be fenced or in a screen enclosure in accordance with these regulations.

3.9 Exterior Lighting. Exterior lighting or illumination of buildings, yards, parking areas, sidewalks and driveways on a Lot shall be designed and installed so as to avoid visible glare (direct or reflected) from street and road right-of-way or any adjacent Lot. Any and all holiday decorations, lights, displays shall be removed and stored no later than 30 days after said holiday.

3.10 Mailboxes and other Delivery Boxes. Any type or design that meets the rules and regulations of the United States Post Office Department are acceptable. All other delivery boxes or receptacles of any kind, including those for newspapers shall be placed on the same post as the mailbox or inconspicuously attached to the main dwelling.

3.11 Sidewalk Installation. It shall be a requirement that sidewalks, as approved by the County, be installed and constructed as a part of each Lot. Each Lot Owner shall be required to install such sidewalk within one (1) year from the date of purchase and closing of the Lot or at the time of construction of the residence dwelling, whichever time or event first occurs.





3.12 Use of Front Yard. No portion of any lot nearer to any street than the building setback line or lines shown upon the Plat shall be used for any purpose other than that of a lawn. Nothing herein contained, however, shall be construed, upon written approval of the ARC, as preventing the use of such portion of said lots for walks, (and drives if otherwise permitted), the planting of trees or shrubbery, the growing of flowers, or ornamental plants, or for statuary, fountains and similar ornamentations, for the purposes of beautifying said Lot; but not vegetables, so called, nor grains of the ordinary garden or field variety shall be grown upon such portion thereof.

3.13 Tree and Dirt Removal, Landscaping. The digging or removal of any dirt or tree from any Lot or other portion of the Subject Property, is prohibited except as necessary in conjunction with the landscaping or construction of approved improvements thereon.

(a) Trees and Shrubs Required. The landscape of each Lot shall include, at a minimum, three (3) trees planted in the front yard in compliance with Brevard County landscaping requirements. As used herein the term "trees" shall mean and be defined as any tree eight (8) feet in height or greater in height. No fruit trees are permitted in the front yard.

(b) Sod. All Lots shall have entire sodded front, side and rear lawns of Floratam sod, Bahia sod or such substitute sod as approved by the ARC, except in approved landscape areas as submitted on the landscape plan.

(c) Wells. Wells and all well pump equipment shall be set back from the front of the property and placed within landscape screens so as not to be visible from any adjacent or neighboring property.

(d) Owners Expense. The Owner shall, at his own expense, design and install all landscaping on the Lot in accordance with these provisions, within thirty (30) days of the time construction of a dwelling is completed, as evidenced by the issuance of a Certificate of Occupancy.

(e) Artificial Vegetation. No artificial vegetation shall be permitted on the exterior of any building on any Lot.

3.14 Underground Utilities. All utility lines and facilities shall be located and installed underground or concealed under or within a building or other on-site improvements approved by the ARC; provided, however, that the foregoing restriction shall not be deemed to prohibit the following: (a) temporary electric power and telephone service poles and water lines which are incident to the ongoing construction of approved permanent improvements, and provided further, that the same are removed immediately following the completion of such construction; (b) above-ground electric transformers, meters and similar apparatus properly screened; (c) permanent outdoor safety light poles located and installed as approved by the ARC.

3.15 Cable Television System. Six Mile Creek has been wired to receive and accept cable and fiber optics for potential residential connection. The cost of the installation and maintenance of the individual cable television system for each single-family residential dwelling on any Lot shall be borne by the Owner of each Lot. It is expressly provided, however, that the

Association shall not have any responsibility or liability to anyone whomsoever or whatsoever, including, without limitation, any Owner, for any failure, deficiency or malfunction of any individual cable television system or the Six Mile Creek central cable television system.

3.16 Setbacks. Setbacks shall conform with the regulations set forth by Brevard County for single-family residence. A swimming pool may not be located in the front yard of any Lot, nor extend forward of the rear plane of the dwelling, as extended to the side lot lines. The swimming pool and its enclosure, may not extend outside of the "line of sight" of the dwelling's side wall lines as sighted from the street to the rear lot line.

3.17 Temporary Structures and Outbuildings. No structure of a temporary or permanent character, whether trailer, tent, shack, greenhouse, garden house, tree house, tool shed, bathhouse, garage (other than the garage required by Section 3.6(b) hereof) barn or other outbuilding shall be maintained or used on any Lot at any time for any purpose; provided, however, that playhouses shall be permitted hereunder, provided plans for the same are approved in advance in writing by the ARC.

3.18 Damaged Buildings. Any building destroyed partially or totally by fire, storm or any other means shall be repaired or demolished within a six-month period and the land restored to an orderly and attractive condition. Any repair, rebuilding or reconstruction on account of casualty or other damage on any Lot or any part or parts thereof, shall be substantially in accordance with the plans and specification for such property and areas as originally constructed or with new plans and specification approved by the ARC.

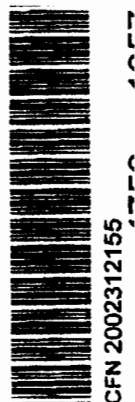
#### ARTICLE IV - ARCHITECTURAL CONTROL

4.1 The Architectural Review Committee ("ARC"). The ARC Committee shall consist of three (3) persons appointed by the Board of Directors of the Association.

4.2 Purpose. The ARC shall regulate the size, location, type, style of architecture, use, the materials of construction thereof, the color scheme thereof, the grading plan of the Lot including the grade elevation of said dwelling, the plot plan showing the proposed location of each dwelling, the plot plan showing the proposed location of each dwelling upon said Lot, and the plan including the landscape plan and maintenance of said Lot and of improvements thereon in such a manner so as to preserve the enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography.

4.3 Submission of Plans and Specifications. No building or other structure of any character shall be erected or placed, or the erection or placing thereof commenced upon a Lot, nor shall any other improvement be made unless plans and specifications including a description of any proposed new use thereof shall have been submitted to and approved in writing by the ARC. Such plans and specification shall be submitted in two duplicate sets and shall be in such form and shall contain such information as may be required by the ARC. One (1) complete set of such plans and specifications shall be permanently lodged with the ARC.

4.4 Procedures. In the event the ARC fails to approve, modify or disapprove in writing an application within thirty (30) days after plans and specification in writing have been submitted



to it, in accordance with adopted procedures, the applicant may petition the Board of Directors for a resolution.

4.5 Transfer of Authority to the Association. The duties, rights, powers, and authority of the ARC may be assigned at any time, to the Board of the Association, and to the Board of Trustees of any similar association having jurisdiction over any portion of the Subject Property and from and after the date of such assignment and the acceptance thereof by the Board or Boards, the Board or Boards shall have full right, authority, and power and shall be obligated to perform the functions of the ARC as provided herein, including the right to designate a representative or representatives to act for it.

4.6 Community Residential Review Committee. Prior to construction, plans and specifications for all buildings, structures or other improvements shall be reviewed and approved by the Viera East Community Association Community Residential Review Committee in accordance with criteria and procedures established under the Community Declaration and other related documents.

#### ARTICLE V - THE ASSOCIATION

5.1 Organization. The Declarant has caused the Association to be organized and formed as a non-profit corporation under the laws of the State of Florida.

5.2 Purpose. The purpose of the Association, in general, shall be to collect the annual maintenance assessments, annual lake lot assessments and special assessments, to administer the Maintenance Fund, to disburse funds for the purposes set forth in Section 7.2, to provide for the maintenance, repair, preservation, upkeep and protection of the Common Area and the Retention Lakes located within the boundaries of the Subject Property, the Recreation Easement on the Natural Area, and to enforce these Declarations and such other purposes as are stated in the Articles of Incorporation, By-Laws and Rules and Regulations of the Association, consistent with the provisions of this Declaration.

5.3 Membership. Every person who is an Owner of any Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation.

5.4 Voting Rights. In an election of Board Members of the Association and on all other matters submitted to a vote of the Members of the Association, there shall be one class of voting membership:

(a) Class A: Class A members shall be entitled to one (1) vote for each Lot attributable to portions of the Subject Property owned or leased by such Members. When more than one person holds an interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any such unit. Notwithstanding the foregoing, in the event a conflict arises between a Member who is the Owner of a Lot and a

Member who has a leasehold interest in said Lot as to who will exercise the vote for the units associated with said Lot, the Owner shall be entitled to determine whether the Owner or his tenant shall have the right to exercise the vote, and the Owner's decision shall be conclusive.

(b) Builders Excluded. Notwithstanding the foregoing provision of this Section 5.4, a builder or building contractor who, in the normal course of his or its business, purchases and thereby becomes the record Owner of a Lot for the purposes of constructing thereon a residential dwelling and related improvements for resale to and occupancy by a third party, shall not thereby become a Member of the Association.

5.5 Approval by Members. The passage of any vote of the membership shall require a simple majority of the votes of the Class A membership.

5.6 Reserved.

5.7 Approval by Members. Unless otherwise specifically provided in this Declaration, or the Articles of Incorporation or By-Laws of the Association, any provision of this Declaration or the Article of Incorporation and By-Laws of the Association which requires the vote or approval of a majority or other specified fraction or percentage of the total voting power of the Association or of the membership therein shall be deemed satisfied by either, both or a combination of the following:

(a) The vote in person or by proxy of a simple majority (186 votes) or other specified fraction or percentage of the entire membership at a meeting duly called and noticed pursuant to the provisions of the By-Laws of the Association dealing with annual or special meetings of the members of the Association.

(b) Written consents signed by a simple majority or other specified fraction or percentage of membership as specified in this Declaration or the Articles of Incorporation or the By-laws of the Association.

5.8 Obligation for Maintenance of Liability Insurance. The Association shall obtain and maintain comprehensive general liability and property damage liability insurance in such limits as the Association from time to time determines, insuring the Association, each Director and each Owner against any liability to the public or the other Owners (and their families, invitees, tenants, agents and employees) arising out of or incident to the ownership, use or maintenance of: (a) the Common Area and any improvements thereto, (b) Tract A, B, C, D, (c) and Landscape Easements, and (d) Retention Lakes. The Board of Directors shall review these limits once each year, but in no event shall such insurance be less than Two million dollars (\$2,000,000) covering all claims for bodily injury or property damage arising out of one occurrence. Reasonable amounts of umbrella liability insurance in excess of primary limits shall also be obtained in an amount not less than three million dollars (\$3,000,000).

The policy described in this Section 5.8 shall provide that:



(a) The policy may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least sixty (60) days prior written notice to the Association.

(b) The deductible, if any, on the insurance policy shall be a common expense of the Association; provided, however, that the Association may, pursuant to Section 5.8 of this Declaration, assess any deductible amount necessitated by the negligence, misuse or neglect of the Owner against that Owner.

(c) All policies of insurance shall be written by reputable companies licensed to do business in Florida.

**5.9 Maintenance Agreement.** For the purpose of the Association providing the required maintenance pursuant to the terms of this Declaration, the Association shall have the right to enter into a maintenance agreement with a third party (or parties), for the purpose of contracting for maintenance and operation of the Common Areas, easements and facilities for the common benefit of the residents of Six Mile Creek. Terms and conditions of any such agreement shall be determined by the Board of Directors of the Association.

**5.10 Membership in The Community Association.** Every Owner shall be deemed to have Membership in the Community Association with the rights and obligations of such membership as set forth in the Viera East Community Association Declaration. The Owners of Lots in Six Mile Creek shall be represented at meetings of the Community Association by the Senior Elected Officer of the Association who shall be a "voting member" of the Community Association with the authority to cast the votes on Community Association affairs as the representative of all the Owners of Lots in Six Mile Creek.

## ARTICLE VI - COMMON AREA

**6.1 Conveyance.** The Declarant by the recordation of the Plat of the Subject Property shall be deemed to have dedicated the Common Area as shown on such Plat and defined in Section 1.3 for the common health, safety, welfare and passive recreation of the residents of and visitors to Six Mile Creek. The conveyance to the Association of the Common Area shall be free of all liens and easements, except for those set forth and those reserved herein. The Declarant hereby covenants for itself, its successors and assigns that said Common Area shall be subject to and bound by the terms of this Declaration and Exhibits hereto. The use and enjoyment of the Common Area shall be subject to such rules and regulations relating thereto as are adopted or amended by the Association.

**6.2 Reserved.**

**6.3 Improvement of Common Area.** The Association reserves the right to construct or make such improvements as the Association determines to the Common Area, provided the improvements are for the purposes specified in this Declaration. The right of the Association herein reserved shall entitle the Association, but not obligate the Association, to make or construct improvements to the Common Area, including without limitation the installation of landscaping, signage, irrigation, and a fence or wall as the Association determines in its sole





discretion. The maintenance, repair and replacement of the Common Area, including improvements thereto, shall be the proportionate obligation of each of the Owners of the Lots as hereinafter provided in this Declaration. All improvements and maintenance of the Common Area must be approved by the Board of Directors before work commences

**6.4 Property Rights.** Every Owner of a Lot shall have the non-exclusive right and easement of enjoyment in and to the Common Area for the purpose for which the same is conveyed and maintained by the Association. Such right and easement of each Owner in and to the Common Area shall be appurtenant to and shall pass with the title to every Lot. The rights and easements of enjoyment created hereby shall be subject to the following provisions:

(a) The right of the Association to adopt and publish rules governing the use of the Common Area and the personal conduct of the Owners and their guests and to establish penalties for the infraction thereof;

(b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(c) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations in accordance with Florida Statute 720;

(d) The right of the Association to require the Owners to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by a simple majority of members qualified to vote has been recorded.

(e) No Owner shall plant, place, fix, install or construct any vegetation, hedge, tree, shrub, fence, wall, structure or other improvement or store any of its or his personal property or prohibit the free flow of pedestrian traffic on the Common Area or any part thereof. The Association shall have the right to remove or cause to be removed anything placed on the Common Area in violation of the provisions of this Section 6.4(e), to restore the Common Area to its condition prior to the violation and to assess the Owner or Owners responsible for the cost of such removal and restoration, which assessment may constitute a lien against the Lot of said Owner or Owners that may be enforced in the manner set forth in Section 7.10 hereto.

**6.5 Delegation of Use.** Any Owner may delegate, in accordance with the By-Laws adopted by the Board of Directors of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

## ARTICLE VII - COVENANT FOR ASSESSMENTS

**7.1 Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is



deemed to covenant and agree to pay to the Association: (a) Annual assessment or charges, (b) Special assessments for capital improvements, (c) Individual assessments, and (d) the Lake Lot assessments, where applicable; all such assessments to be established and collected as provided in this Declaration. Each such assessment together with interest, late fees, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

**7.2 Purpose of Assessment.**

(a) In general the assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Subject Property and in particular for the improvement and maintenance of the Common Area, the Walls, Landscape, and Pedestrian Access Easements and the Retention Lakes.

(b) Regular assessments shall be levied in order to provide for and assure the availability of the funds necessary to pay Common Expenses, which shall include without limitation the following:

(i) Those incurred in connection with the maintenance, protection and improvement of the Common Area, including without limitation; landscaping, irrigation, signage, fence or walls.

(ii) Those incurred for utility services to the Common Area, including without limitation, electric or gas power for any common entry, street lighting, or fence lighting, water for the common irrigation system and any other properties owned by the Association.

(iii) Those incurred in the administration of the business of the Association, including without limitation, necessary and appropriate fees for services rendered by engineers, accountants, attorneys, and property managers.

(iv) Those incurred for the payment of real and personal property taxes and assessments for any property owned by the Association.

(v) Those incurred for the maintenance of adequate casualty and liability insurance on the Common Area and Retention Lakes, and for director and officer liability insurance.

(vi) Those incurred under the terms of the Recreational Easement Agreement for the purpose of maintaining any amenities constructed on the Natural Area reserved for the use or benefit of the Association and the Owners of the Subject Property.

(vii) Those incurred for doing any other thing necessary or desirable which in the judgment of the Association may be of general benefit to the Owners of Lots within the Subject Property.

**7.3 Maximum Annual Assessment.** Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$125.00 per Lot:

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than fifteen percent (15%) above the maximum assessment for the previous year without a vote of the membership.

(b) After January 1, 1993, the maximum annual assessment may be increased above fifteen percent (15%) by a vote of a simple majority of the membership.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

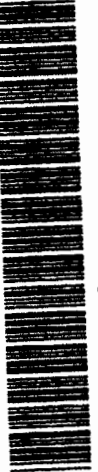
**7.4 Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area or within the Wall and Landscape Easements, including fixtures and personal property and the financing of same related thereto, provided that any such assessment shall have the assent of a simple majority of the votes of the membership.

**7.5 Lake Lot Assessment.** In addition to the regular annual assessment described in Section 6.3 the Owners of the Lake Lots shall pay an annual lake lot assessment of \$30.00. The lake lot assessments shall be paid to the Association and become a part of the maintenance fund to be used for the expenditures related to the maintenance, preservation and improvement of the Retention Lakes.

**7.6 Notice and Quorum for Any Action Authorized Under Sections 3, 4 and 5.** Written notice of any meeting called for the purpose of taking any action authorized under Section 7.3, 7.4 or 7.5 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the meeting, the presence of members or of proxies entitled to cast a simple majority of all the votes of the membership shall constitute a quorum.

**7.7 Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on an annual basis, or such other basis as the Board of Directors determines.

**7.8 Date of Commencement of Annual Assessments.** Due Dates. The annual assessments provided herein shall commence as to all Lots on the first day of the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate



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of the Association as to the status of assessments on a Lot is binding upon the association as of the date of its issuance.

7.9 Individual Assessment. In addition to any other assessment for which provisions are made in this Declaration, the Association shall have the authority to levy and collect against a particular Lot and the Owner of such Lot an individual lot assessment for:

(a) Costs and expenses incurred by the Association in bringing a particular Lot into compliance with the provisions of this Declaration, including any action taken or cost or expense incurred by the Association to cure and eliminate any violation or noncompliance within fourteen (14) days following written notice from the Association of the nature of the violation of or noncompliance with this Declaration, to cure or remedy such violation or noncompliance. After the fourteen (14) day period and a hearing before a committee of at least three persons appointed by the Board in accordance with Section 720.305 of the Florida Statutes, the Association may impose a TWENTY FIVE (\$25.00) DOLLAR fine for each day of non-compliance up to a maximum of ONE THOUSAND (\$1,000.00) DOLLARS, and this fine shall be considered an individual assessment. Collection and enforcement shall be as described in Paragraph 7.10, Effect of Non-Payment of Assessments: Remedies of the Association. This shall be in addition to any other remedies provided herein, at law, and in equity, and all such remedies are cumulative and not exclusive.;

(b) Costs and expenses, including reasonable attorney's fees, whether or not suit be brought, incurred by the Association in the enforcement of the provisions of this Declaration against a particular Lot or the Owner of such Lot;

(c) Costs and expenses incurred by the Association in furnishing or providing labor, services and materials which benefit a particular Lot or the Owner of a particular Lot provided that such labor, services or materials can be accepted or rejected by such particular Owner in advance of the Association's furnishing or providing the same and that such Owner's acceptance of any such labor, services or materials shall be deemed to have been such Owner's agreement that the costs and expenses associated therewith shall be levied and collected as an individual lot assessment against such particular Owner and his particular Lot; and

(d) Reasonable overhead expenses of the Association associated with any Individual Lot assessment levied and collected pursuant to this Section 7.9, in an amount not to exceed fifteen percent (15%) of the actual costs and expenses incurred by the Association for any Individual Lot assessment specified in this Section 7.9.

7.10 Effect of Non-Payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall incur a \$25.00 late fee. The Association shall have a lien on an Owner's property for any unpaid assessment and fee thereon any and all costs which have been assessed against the defaulting Owners. The said lien shall be effective from and after the time of recording in the Public Records of Brevard County, Florida, of a Claim of Lien; and said lien shall continue in effect until all sums secured by the lien shall have been fully paid. All such Claim of Liens shall include only assessments which are payable and due when the said Claim of Lien is recorded, and all such Claim of Liens shall be signed and verified by an officer or agent of the Association. When any such liens shall have been paid in

full, the party making payment thereof shall be entitled to receive a Satisfaction of such lien in such form that it may be recorded in the Public Records of Brevard County, Florida. The Board of Directors may take such action as they deem necessary to collect assessments, by personal action or by enforcing and foreclosing said lien, and may settle and compromise the same if in the best interest of the Association. The delinquent Owner shall pay all costs including reasonable attorney's fees, incurred by the Association incident to the collection of such assessments. The lien shall be deemed to cover said additional costs and advances. Filing of one action shall not bar the filing of other actions. The Association, through its Board of Directors, will be entitled to bid at any sale held pursuant to a suit to foreclose an assessment lien, and it may apply as a cash credit against its bid all sums due the Association covered by the lien enforced. No Owner may waive or otherwise escape liability for the assessments provided for herein by the non-use of the Common Area of abandonment of his Lot.

7.11 Exempt Property. The Common Area and those portions of the Subject Property located within any public utility easement and dedicated to and accepted by the applicable local public authority and devoted to public use shall be exempt from the assessments, charges and liens created herein.

7.12 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate and inferior to all liens securing amounts due or to become due under any mortgage now or hereafter encumbering any Lot and to any executory land sales contract owned by the Veterans Administration or its assigns, wherein the named seller is the Administrator of Veterans Affairs, whether such contract is recorded or not to the extent of any such assessment accrued and recorded or not to the extent of any such assessment accrued and unpaid prior to foreclosure of any such Mortgage; and further, provided that as a condition precedent to any proceeding to enforce such lien for assessment upon any Lot upon which there is a valid and existing first Mortgage, the Association shall give the holder of such Mortgage sixty (60) days written notice of such proposed action, which notice shall be sent to the nearest office of such first mortgage lienholder by prepaid U.S. certified mail and shall contain a statement of the delinquent assessment upon which the proposed action is based. Upon the request of any such first Mortgage lienholder, the Association shall acknowledge in writing its obligations to give the foregoing notice with respect to the particular Lot covered by such Mortgage to the holder thereof. Sale or transfer of any Lot shall not affect the assessment lien. Nevertheless, any foreclosure by a prior lienholder shall cut off and extinguish the liens securing the assessments which became due and payable prior to such foreclosure date, but no such foreclosure shall free any Lot from securing charges thereafter becoming due and payable, nor shall any personal obligation of any Owner be extinguished by any foreclosure.

## ARTICLE VIII - EASEMENTS, LICENSE, RESTRICTIONS ON LAKES

8.1 Construction of Lakes. The Retention Lakes are (a) an essential element of the Storm Water Management System for Six Mile Creek as required by the County and St. Johns Water Management District, and (b) for the recreation and enjoyment of those Owners of the Lake Lots.

8.2 Ownership of Lakes. Pursuant to the Plat filed on record with the County, each of the Lake Lots includes fee simple title to a portion of that Retention Lake.



8.3 Grant of License Upon Conveyance of Lake Lot. Pursuant to the provisions of this Declaration each Owner of a Lake Lot shall be deemed to have been granted along with the conveyance of each Lake Lot, a non-exclusive license to use all parts of the respective Lake to which the Owner's Lake Lot is contiguous for recreation purposes subject to the conditions, reservations and restrictions provided in this Article VIII.

8.4 Non-exclusive License. The license to use the Lakes hereby granted is non-exclusive and is limited to reasonable use of the Lakes for recreation purposes by those Owners who now or hereafter reside on the above described Lake Lots; their families, invitees, and tenants. The license hereby granted to a Lake Lot Owner is limited to the use of the Lake to which an Owner's Lot is contiguous.

8.5 Reserved.

8.6 Limitation on Use. Each Owner and any other persons and their guests entitled to use of the Lakes under the terms of the license hereby granted shall not use such Lake or carry on any activity on such Lake that will detract from, impair or interfere in any way with the use or enjoyment (including aesthetic enjoyment) of such Lake by the Owners, their heirs or assigns, or any other person now or hereafter licensed to use such Lake, or such use shall not detract from, impair or interfere in anyway with the value, use, or enjoyment (including aesthetic enjoyment) of any property that now or hereafter abuts such Lake. The Association shall have the right to prohibit any use of such Lake which, in the opinion of the Association, is in violation of the foregoing restriction.

8.7 Docks and Other Structures. No dock, walkway, ramp, wall, piling, float or other structure shall be erected, constructed, installed, maintained, altered, changed or relocated on, in or over the Lakes, unless the ARC consents to such dock, walkway, ramp, wall, piling, float or other structure, and unless in accordance with plans approved in writing by the ARC. Dock specifications have been included in Exhibit B.

8.8 Chains, Cables. No cable, chain or other device that interferes with the free passage of boats on and across the Lakes shall be installed or maintained by any Owner with the exception of those maintained by the Association for the purpose of locating fountains and the like.

8.9 Motors. No gasoline motors or other internal combustion engines of any nature whatsoever shall be used on the Lakes.

8.10 Dumping. No dirt, sand, fill, debris, rubbish, sewage, goods, chattels, chemicals or other materials shall be dumped, drained or deposited in or on the Lakes by any Owner or by any other person using the Lakes under the terms of the license hereby granted.

8.11 Commercial Activity. The Lakes shall not be used in any way for commercial purposes.

8.12 Reserved.



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**8.13 Exculpation of Liability and Responsibility for Maintenance.** Each Lake Lot Owner shall be responsible for maintenance of the entire Lot including the portion to the edge of the lake. Said Lakes and the littoral zone plantings are an integral part of the Surface Water Management System for Six Mile Creek. They are private, not public. Said Lakes have not been and will not be dedicated to or accepted or maintained by any governmental authority, including the County. As stated in Article IX, that easements for the Surface Water Management System have been granted to the Association. Subject to the terms and provisions of this Declaration, the Association has sole and exclusive jurisdiction over responsibility for the administration, management, regulation, care, maintenance, repair, restoration, replacement, improvement, preservation and protection of the Surface Water Management System within Six Mile Creek. Accordingly, each Owner of a Lot in Six Mile Creek, by the acceptance of a deed or other conveyance to his Lot shall be deemed to have agreed that neither the Community Developer, the County nor any other governmental agency shall have any liability or responsibility whatsoever (whether financial or otherwise) with respect to the Surface Water Management System for Six Mile Creek and the Retention Lakes and their littoral planting zones, and each such Owner of a Lot in Six Mile Creek shall be deemed to have further agreed to look solely and exclusively to the Association with respect to any such liability or responsibility.

**8.14 Exculpation of Liability and Responsibility for Damages.**

(a) Each Owner and his successors and assigns shall be responsible for the conduct of all persons who use the Lakes under terms of the License hereby granted and shall be liable for any loss or damage resulting from the violation by any such person or persons of the terms, conditions and restrictions herein provided.

(b) Neither the Association nor the Community Developer shall be responsible for any loss or damage to any Owner, his heirs or assigns, or any other person who uses the Lakes under the terms of this license due to any act or omission or any contractor or subcontractor employed by them, or either of them, for the construction and development, enlargement, or maintenance of the Lakes, or due to any act or omission of any adjoining Owner, or due to any act or omission of any other person or persons using the Lakes under any other license heretofore or hereafter granted by the Association to use the Lakes, or due to any act or omission of any other person or persons using the Lakes without license or other authorization.

(c) Use of the Lakes by an Owner, his heirs or assigns, or any person who occupies the above described property owned by the Owner or the guests of such person, shall be at the risk of the user and neither the Association nor the Community Developer shall be responsible for any loss or damages to such user or any other person resulting from such use. Each Owner, by acceptance of the license, agrees for himself and his heirs and assigns to indemnify and save Association and the Community Developer, its successor and assigns harmless from any claim of loss or damage resulting from the use of the Lakes by an Owner, his heirs or assigns, such persons who occupy Owner's property, or the guests of such persons.

**8.15 Enforcement.** The foregoing terms, conditions, reservations and restrictions shall be enforced by the Association.

8.16 License Appurtenant to Lake Lots. The license herein granted shall be an appurtenance and shall not be separated from ownership of said Lake Lots. No Owner, his heirs and assigns shall convey or transfer this license, or otherwise transfer any rights under this license except in connection with the conveyance or lease of said Lot.

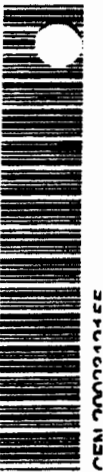
8.17 Owner's Covenant. An Owner by the purchase of a Lake Lot accepts this license, agrees for himself and his heirs and assigns that the terms, reservations and restrictions set forth herein regarding use of the Lakes shall apply to the portion of the Lakes now or hereafter located on the Owner's respective Lot and that the terms, conditions, reservations, and restrictions set herein shall be binding upon the Owner and his heirs and assigns.

## ARTICLE IX - RESERVATIONS AND EASEMENTS

9.1 Reservation of Easements on Plats. The Association, on behalf of itself and for the benefit, where so stated of the County, all Owners and also for the benefit of all the Subject Property, hereby creates, declares and reserves easement under and over those portions of the rear and side of each Lot, designated as utility easements on the recorded Plat, for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems including but not limited to water, sewer, gas, telephone, electricity, television, cable or other communications lines or systems subject to the limitations set forth in Section 9.2 No structure shall be erected on any of said easements, and no improvements may be placed within said easements without the written approval of any utility company using such easements. Neither the easement rights reserved herein, nor as shown on the Plat shall impose any obligation on the Association to maintain such easements or to install or maintain utilities or any drainage in or under such easements.

9.2 Reservation of Right to Consent to Construction. The Association reserves the exclusive right to grant consents for the construction, operation and maintenance of electric lights, telephone lines and conduits, water, gas, storm drainage, sewer and pipes and conduits and any other public utility facilities, together with the necessary or proper easements, incidents and appurtenances in, through, under and/or upon any and all streets and right-of-way, now existing or hereafter established, upon which any portion of said premises may now or hereafter front or abut. The Association on behalf of itself and for the benefit where so stated of the County, all the Owners and also for the benefit of the Subject Property reserves the right to grant consent for the construction, operation and maintenance of all said utility and service lines and systems referred to in Section 9.1

Provided, however, that the right to grant consent for the installation, operation and maintenance of the cable television shall be subject to the limitations set forth in the Declaration of Easements and Development Covenants and Restrictions recorded on December 22, 1988, Official Records of the County at Vol. 2970, Page 0948. Community Developer in said Declaration of Easements and Development Covenants and Restrictions has reserved for itself the exclusive right for a period of one (1) year commencing on December 20, 1988, to select a franchise and negotiate agreements with cable television services to service the Subject Property with cable television. Thereafter, the Community Developer shall have the non-exclusive right to install, operate and maintain cable television and communication services to the residential





units. Owners may install and maintain individual cable television systems in each single-family residential dwelling as provided in Section 3.15.

9.3 Drainage Easements. There is hereby created, declared and reserved for the benefit of the Association and all Owners a non-exclusive easement for storm water collection, retention, detention and drainage over, upon all drainage easements shown on the Plat or otherwise reserved, declared or created pursuant to this Declaration, together with an easement and license to enter upon such easements and easement areas for the purposes of constructing, installing, inspecting, maintaining, repairing and replacing any and all storm water drainage systems, improvements and facilities from time to time located therein or thereon. Additionally, the Association, for the benefit of itself, and all Owners hereby reserves easements over any and all other portions of the Subject Property as may be reasonably required from time to time in order to provide storm water drainage to all or any portions of the Subject Property; provided, however, that any such additional drainage easements shall not unreasonably interfere with the use and enjoyment by any Owners of the particular Lots or the Common Area affected thereby or any improvements from time to time placed, located, constructed, erected or installed thereon. The easements hereinabove created, declared and reserved contemplate the construction of storm water drainage improvements and facilities shown on the plans for the Surface Water Management System for Six Mile Creek as approved by the County and the St. Johns River Water Management District, and any replacement or substitute permits issued by the St. Johns River Water Management District, and such additional or supplemental facilities as may reasonably be required to provide adequate storm water drainage and surface water management to all portions of the Subject Property.

9.4 Emergency Access and Drainage Easement. There is hereby created, declared, granted and reserved for the benefit of the County, a non-exclusive easement over and upon all drainage easements comprising and appurtenant to the Surface Water Management System for the purpose of undertaking emergency maintenance and repairs to the Surface Water Management System in the event that inadequate maintenance or repair of the Surface Water Management System shall create a hazard to the public health, safety or general welfare. It is expressly provided, however, that the creation, declaration and reservation of such Emergency Access and Drainage Easement shall not be deemed to impose upon the County any obligation, burden, responsibility or liability to enter upon the Subject Property or any portion thereof to take any action to maintain or to repair the Surface Water Management System or any portion or portions thereof.

9.5 Maintenance of Easements. The Owners of the Lot or Lots, subject to the easements shall acquire no right, title or interest in or to any poles, wires, cables, conduits, pipes, mains, valves, lines or other equipment or facilities placed on, over or under the property which is subject to the easements. With regard to specific easements for drainage as shown on the Plat, the Association shall have the right, but without any obligation imposed thereby, to alter or maintain drainage facilities on such easements, including slope control areas. No structure, irrigation system, planting or other material shall be placed or permitted to remain which may damage or interfere with access to, or the installation and maintenance of, the easements or any utilities or drainage facilities, or which may change the direction of flow or obstruct or retard the flow of water through drainage channels on any easement or which may reduce the size of any ponds, creeks, lakes or other water retention areas which are shown on the Plat or which may be



constructed on such easement. The Association shall not be responsible for maintaining any easement areas on individual Lots designated on the Plat as Drainage or Utility Easements. Such drainage and utility easements shall be maintained by the individual Lot Owners.

**9.6 Wall and Landscape Easements.** There is hereby created, declared, granted and reserved for the benefit of the Association an easement over and upon all Wall and Landscape Easement areas shown on the recorded Plat together with the easement and license to enter upon such Wall and Landscape Easement areas for the purposes of erecting, constructing, installing, inspecting, maintaining, repairing and replacing: (a) any and all security or screening walls or fences, (b) any and all landscaping, including trees, grasses, shrubs, bushes, ground covers and other plant material, and (c) any irrigation systems of any kind, whether the same shall be required by the County and/or deemed necessary or desirable by the Association.

**9.7 Association Easement.** There is hereby created, declared and granted to the Association, such easements over and upon all or any portion of the Subject Property as may be reasonably necessary to permit the Association to carry out and discharge its duties, obligations and responsibilities under and pursuant to this Declaration and the Articles of Incorporation, By-Laws and Rules and Regulations of the Association. Such Association Easement shall be in addition to the Drainage Easements hereinabove granted to the Association pursuant to Section 9.3 of this Declaration for the purpose of constructing, installing, inspecting, maintaining, repairing and replacing any and all portions of and facilities comprising the Surface Water Management System.

**9.8 Future Easements.** There is hereby reserved to the Association and its successors and assigns, together with the right to grant and transfer the same, the right, power and privilege to, any time hereafter, grant to itself, the Association, the County or any other parties such other further and additional easements as may be reasonably necessary or desirable, in the sole opinion and within the sole discretion of the Association, for the future orderly development of Six Mile Creek in accordance with the objects and purposes set forth in this Declaration. Provided, however, any easement created on the Subject Property pursuant to this Section 9.8 may only be located within easements heretofore or herein established of record. It is expressly provided, however, that no such further or additional easements shall be granted or created over and upon any Lot pursuant to the provisions of this Section if any such easement shall unreasonably interfere with the presently contemplated or future use and development of a particular Lot as a single-family residential home site. The easements contemplated by this Section 9.8 may include, without limitation, such easements as may be required for utility, drainage, road right-of-way or other purposes reasonably related to the orderly development of Six Mile Creek in accordance with the objects and purposes specified in this Declaration. Such further or additional easements may be hereafter created, granted or reserved by the Association without the necessity for the consent of the Owner of a particular portion of the Subject Property over which any such further or additional easement is granted or required.

## ARTICLE X - GENERAL COVENANTS AND RESTRICTIONS

**10.1 Laws and Ordinances of the State of Florida.** The laws and ordinances of the State of Florida and Brevard County, as well as the rules and regulations of their administrative agencies now or hereafter in effect, are hereby incorporated herein and made a part hereof.



**10.2 Rules and Regulations.** In addition to the foregoing restrictions on the use of the Lots and the Common Area, and the Landscape, the Association shall have the right, power and authority to promulgate and impose reasonable rules and regulations governing and/or restricting the use of the Lots and Common Area and said Easements and to hereafter change, modify, alter, amend, rescind and augment any of the same. Any such rules and regulations so promulgated by the Association shall be applicable to and binding upon all Lots and the Owners thereof and their successors and assigns, as well as all guests or invitees of and all parties claiming by, through or used such Owners. Copies of the regulations and amendments thereto shall be furnished by the Association to all Owners.

**10.3 Duration.** This Declaration shall run with and bind all of the Subject Property perpetually, and shall inure to the benefit of and be enforceable by the Association and the Owners of the Lots, their respective successors, assigns, heirs, executors, administrators and personal representatives, except that a duration of forty (40) years, at the end of which period said restrictions shall be automatically extended for successive periods of ten (10) years each, unless at least ninety-five percent (95%) of the Owners at the time of the expiration of the initial period, or of any extension period, shall sign an instrument or instruments, in which they shall agree to change said restrictions in whole or in part, and said instrument shall be recorded in the office of the clerk of the County prior to the expiration of the initial period of any extension thereof.

**10.4 Notice.** Any notice required to be sent to any Member or Owner under the provisions of this Declaration or the Articles of Incorporation or By-Laws shall be deemed to have been properly sent, and notice thereby given, when mailed, by regular post, with postage prepaid, addressed to the member or Owner at the last known post office address of the person who appears as a Member on the records of the Association at the time of such mailing. Notice to one Owner shall constitute notice to all Owners thereof. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any change of address. Valid notice may also be given to Members by: (a) personal delivery to any occupant of any dwelling over fourteen (14) years of age, or (b) by affixing said notice to or sliding same under the front door of any dwelling within the Subject Property.

**10.5 Enforcement.** Enforcement of this Declaration shall be by any appropriate proceeding in law or equity in any court or administrative tribunal having jurisdiction, against any person or persons, firm or corporation violating or attempting to violate or circumvent any provision herein contained, either to restrain or enjoin such violation or threatened violation or to recover damages, and against any Lot to enforce any lien created by this Declaration, and failure by the Association or any Owner to enforce any covenant or restriction herein contained for any period of time, shall in no event be deemed a waiver or estoppel of the right to thereafter enforce the same. In the event that the Association should at any time fail to discharge its obligations to maintain any portion of the Subject Property as required by this Declaration, or to enforce the provisions hereof, any Owner shall have the right to enforce such obligations by any proceeding at law or equity. A failure to so enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.



**10.6 Precedence Over Less Stringent Governmental Regulations.** In those instances where the covenants, conditions and restrictions set forth in this Declaration set or establish standards, limitations or restrictions on use in excess of Governmental regulations, the covenants, conditions and restrictions set forth in this Declaration shall take precedence and prevail over less stringent Governmental Regulations.

**10.7 Severability.** Should any covenant or restriction herein contained, or any article, section, subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable, and which shall remain in full force and effect.

**10.8 Amendment.**

(a) **Reserved.**

(b) **Amendment by Association.** Subject to the provisions of Section 10.8(d) of this Declaration, the terms and provisions of this Declaration may be changed, amended, or modified at any time and from time to time by the Association upon the affirmative written consent or the vote of a simple majority of the total voting power of the members of the Association.

(c) **Manifestation of Requisite Consent.** In the case of any change, amendment or modification of this Declaration by the Association which requires the affirmative written consent or vote of members of the Association as hereinabove, and as provided in Section 10.8(d), the acquisition of the requisite written consent or vote of members shall be manifested on the face of the amending instrument in a certificate duly executed and sworn to before a Notary Public by the President and Secretary of the Association affirmatively stating that such requisite affirmative written consent or vote has, in fact, been acquired or obtained prior to the recording of such amending instrument among the public records of the County. Such change, amendment or modification of this Declaration shall be effective as of the date of recording in the public records of the County.

(d) **Limitations on Amendments.** Notwithstanding anything to the contrary set forth in this Declaration, the rights of the Association to change, amend or modify the terms and provisions of the covenants, conditions, restrictions, easements, license and reservations set forth in this Declaration shall at all times be subject to and limited and restricted as follows, to wit:

(i) To the extent that particular rights or interests are expressly conferred upon or granted to the County pursuant to this Declaration, the particular terms and provisions of this Declaration pursuant to which any such rights and interests are conferred upon, or granted to the County shall not be changed, amended or modified without the prior written consent and "Joinder of the County."

(ii) To the extent that any term or provision of this Declaration may be included herein in satisfaction of the conditions to approval of the platting or subdivision of the

Subject Property by the County, such terms or provisions of this Declaration shall not be changed, amended, or modified or otherwise deleted or eliminated from this Declaration without the prior written consent and "Joinder of the County."

(iii) This Declaration may not be changed, amended or modified in such manner as to terminate or eliminate any easements granted or reserved herein to the Association or to the County, respectively, without the prior written approval of the Association or the County, as the case may be, and any attempt to do so shall be void or have no force and effect.

(iv) This Declaration may not be changed, amended or modified in any fashion which will result in or facilitate the dissolution of the Association or the abandonment or termination of the obligation of the Association to maintain the Common Area after it meets Brevard County standards and has been accepted by the Association, including specifically the Surface Water Management System, and or the obligation of the Association to establish, make, levy, enforce and collect assessments for such purposes, and/or the obligation of the Association to maintain liability insurance as provided in Section 5.8.

(v) This Declaration may not be changed, amended or modified in any fashion which would affect the Surface Water Management System, or its maintenance by the Association, without the prior written consent and approval of the St. Johns River Water Management District.

(vi) This Declaration may not be changed, amended or modified in such fashion as to change, amend, modify, eliminate or delete the provisions of this Article X related to the granting of the license to use the Lake Lots and the indemnification of the Association, by the Lake Lot Owners for any damages arising out of the construction, use and maintenance of the Retention Lakes without the prior written consent of the Association.

(vii) This Declaration may not be changed, amended or modified in any manner so as to adversely and materially affect the priority or validity of any permitted first mortgage or the value of any Lot and its properly approved improvement.

10.9 Annexation. Additional, contiguous land now or hereafter owned by the Association, its successor or assigns, may be added or annexed to the Subject Property. Any portion of the Subject Property may be made subject to the terms hereof by the Association, its successors or assigns, without the consent of Owners at any time or from time to time by the recording in the official records of the County of any instrument expressly stating an intention to so annex such additional land. Such additional land which may be added or annexed shall be subject to the annual assessment existing at the time of such addition or annexation.

10.10 Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

10.11 Ratification, Confirmation and Approval of Agreements. The purchase of a Lot, and the acceptance of the Deed therefor by any party, shall constitute the ratification,



confirmation and approval by such purchaser, his heirs, legal representative and assigns of the property and legality of said agreements.

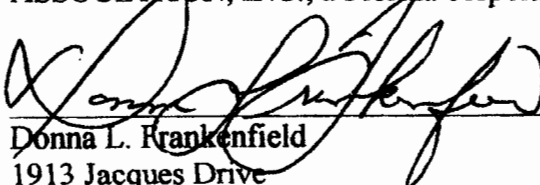
10.12 Conflict with Deeds of Conveyance. If any one of the covenants, conditions or restrictions contained in this Declaration shall be in conflict with any covenant, condition or restriction within a previously recorded deed of conveyance to any portion of the Subject Property, the covenants, conditions, or restrictions within the prior deed of conveyance shall control and be superior and supersede the covenants, conditions or restrictions within this Declaration to the extent of such conflict, but no greater.

10.13 Constructive Notice and Acceptance. Every person, corporation, partnership, limited partnership, trust, association or other legal entity, who or which shall hereafter have, claim, own or acquire any right, title, interest or estate in, or to any portion of the Subject Property, whether or not such interest is reflected upon the public records of the County, shall be conclusively deemed to have consented and agreed to each and every term, provision, covenant, condition, restriction, license, easement and reservation contained, or by reference incorporated in this Declaration, whether or not any reference to this Declaration is contained in the document or instrument pursuant to which such person, corporation, partnership, limited partnership, trust, association or other legal entity shall have acquired such right, title, interest or estate in the Subject Property or any portion thereof.

10.14 Assignment of Declarant's Rights and Interests. The rights and interests of the Declarant under this Declaration have been transferred and assigned by the Declarant to any successor or successors to all or part of the Declarant's interest in the Subject Property by an express transfer, conveyance or assignment incorporated into any recorded deed or other instrument, as the case may be, transferring, conveying or assigning such rights and interests to such successor.

The undersigned officers of the SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC. ("the Association"), which is the Association responsible for the management and operation of the SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC., hereby certify that the foregoing Restatement was duly approved by the members of the Association at a duly-noticed meeting thereof, which was held on December 8, 2002.

SIX MILE CREEK SUBDIVISION HOMEOWNERS  
ASSOCIATION, INC., a Florida corporation

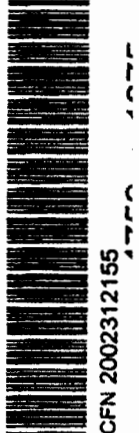
  
Donna L. Frankenfield, President  
1913 Jacques Drive  
Viera, Florida, 32940



*Kevin Marrs*

Secretary

Kevin Marrs  
Space Coast Property Management of Brevard, Inc.  
1617 Cooling Avenue  
Melbourne, FL 32935



STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of December, 2002, by Donna L. Frankenfield, as President of Six Mile Creek Subdivision Homeowners Association, Inc., on behalf of the corporation who produced F652 172 60 356 0 as identification and did not take an oath.



John L. Soileau  
MY COMMISSION # CC850426 EXPIRES  
October 29, 2003  
BONDED THRU TROY FAIN INSURANCE, INC.

*[Signature]*  
NOTARY PUBLIC, State of Florida at Large

My Commission Expires:

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of December, 2002, by Kevin Marrs, as Secretary of Six Mile Creek Subdivision Homeowners Association, Inc., on behalf of the corporation who produced mb20 507 67 184 as identification and did not take an oath.



John L. Soileau  
MY COMMISSION # CC850426 EXPIRES  
October 29, 2003  
BONDED THRU TROY FAIN INSURANCE, INC.

*[Signature]*  
NOTARY PUBLIC, State of Florida at Large

My Commission Expires:

31 of 31 *Km*  
*DLK*

PLAT BOOK 35  
AND PAGE 100

**DEDICATION**  
I, the undersigned, being the owner, do hereby dedicate to the public the premises hereinafter described for the purposes and uses set forth in the accompanying plat and certify that the same are for public use and that the same are not subject to any other claim or lien and that the same are not subject to any other claim or lien and that the same are not subject to any other claim or lien.

**CERTIFICATE OF SURVIVOR**  
I, the undersigned, being the owner, do hereby certify that the premises hereinafter described are not subject to any other claim or lien and that the same are not subject to any other claim or lien.

**CERTIFICATE OF APPROVAL BY MUNICIPALITY**  
I, the undersigned, being the Mayor of the City of Fort Pierce, do hereby certify that the premises hereinafter described are not subject to any other claim or lien and that the same are not subject to any other claim or lien.

**CERTIFICATE OF APPROVAL BY BOARD OF COUNTY COMMISSIONERS**  
I, the undersigned, being the Chairman of the Board of County Commissioners of the County of St. Lucie, do hereby certify that the premises hereinafter described are not subject to any other claim or lien and that the same are not subject to any other claim or lien.

**CERTIFICATE OF APPROVAL BY STATE**  
I, the undersigned, being the Governor of the State of Florida, do hereby certify that the premises hereinafter described are not subject to any other claim or lien and that the same are not subject to any other claim or lien.

**CERTIFICATE OF APPROVAL BY PLANNING AND ZONING COMMISSION**  
I, the undersigned, being the Chairman of the Planning and Zoning Commission of the County of St. Lucie, do hereby certify that the premises hereinafter described are not subject to any other claim or lien and that the same are not subject to any other claim or lien.

**CERTIFICATE OF APPROVAL BY TRACT F. FORT PIERCE PARK, INC.**  
I, the undersigned, being the President of Tract F. Fort Pierce Park, Inc., do hereby certify that the premises hereinafter described are not subject to any other claim or lien and that the same are not subject to any other claim or lien.

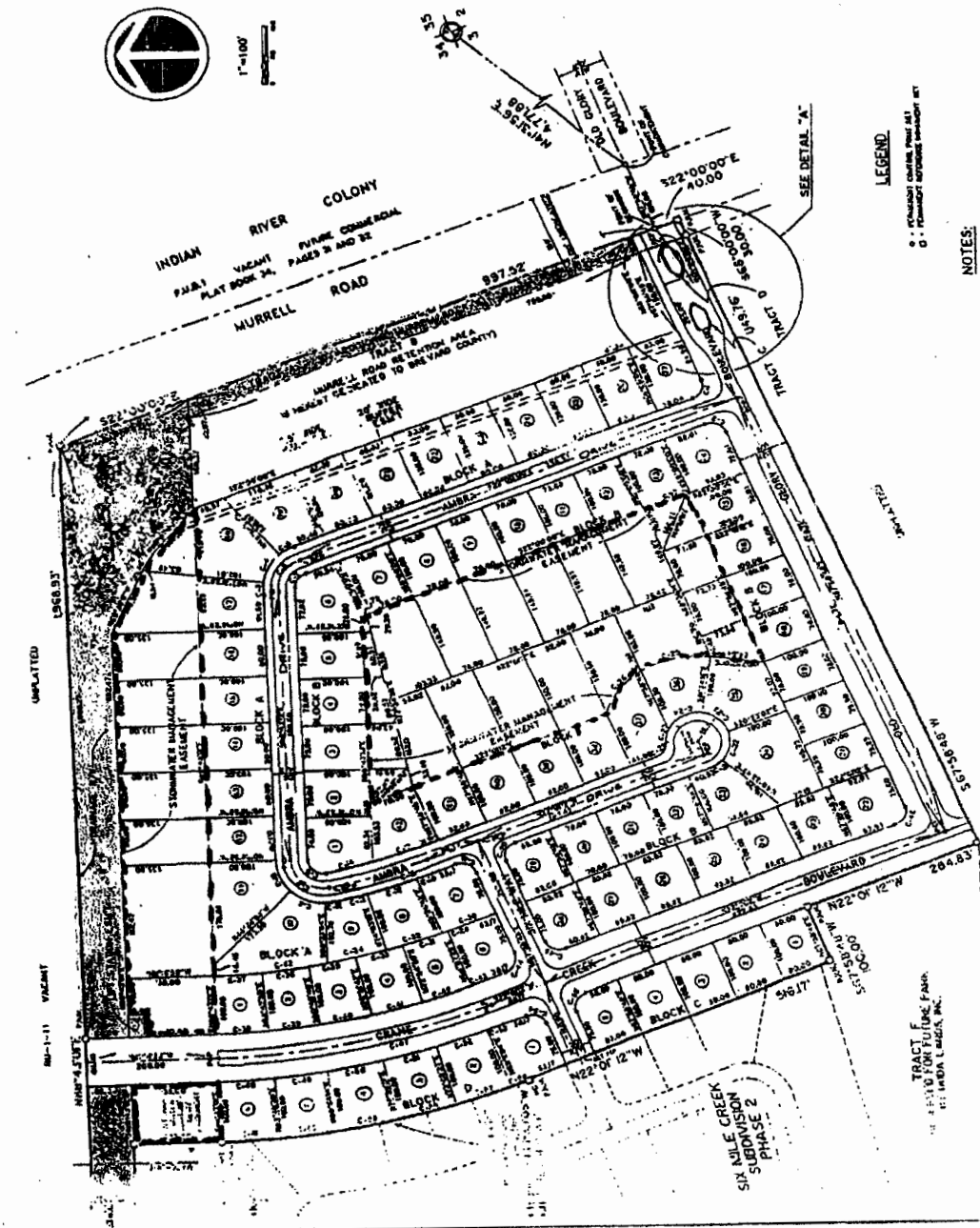
**CERTIFICATE OF APPROVAL BY PLANNING AND ZONING COMMISSION**  
I, the undersigned, being the Chairman of the Planning and Zoning Commission of the County of St. Lucie, do hereby certify that the premises hereinafter described are not subject to any other claim or lien and that the same are not subject to any other claim or lien.

**CERTIFICATE OF APPROVAL BY TRACT F. FORT PIERCE PARK, INC.**  
I, the undersigned, being the President of Tract F. Fort Pierce Park, Inc., do hereby certify that the premises hereinafter described are not subject to any other claim or lien and that the same are not subject to any other claim or lien.

**CERTIFICATE OF APPROVAL BY PLANNING AND ZONING COMMISSION**  
I, the undersigned, being the Chairman of the Planning and Zoning Commission of the County of St. Lucie, do hereby certify that the premises hereinafter described are not subject to any other claim or lien and that the same are not subject to any other claim or lien.

**CERTIFICATE OF APPROVAL BY TRACT F. FORT PIERCE PARK, INC.**  
I, the undersigned, being the President of Tract F. Fort Pierce Park, Inc., do hereby certify that the premises hereinafter described are not subject to any other claim or lien and that the same are not subject to any other claim or lien.

**SIX MILE CREEK SUBDIVISION - PHASE I**  
SECTION 3 AND 4, TOWNSHIP 26 SOUTH,  
RANGE 36 EAST OF BREVARD COUNTY, FLORIDA



**NOTES:**

1. EASEMENTS FOR POWER LINES AND SEWER LINES ARE SHOWN ON THIS PLAN.
2. EASEMENTS FOR POWER LINES AND SEWER LINES ARE SHOWN ON THIS PLAN.
3. EASEMENTS FOR POWER LINES AND SEWER LINES ARE SHOWN ON THIS PLAN.
4. EASEMENTS FOR POWER LINES AND SEWER LINES ARE SHOWN ON THIS PLAN.

SEE VOLUMER BK 2000 PG 1478  
RESTRICTIONS BK 2000 PG 1478



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OR Book/Page: 4759 / 1376

EXHIBIT A-



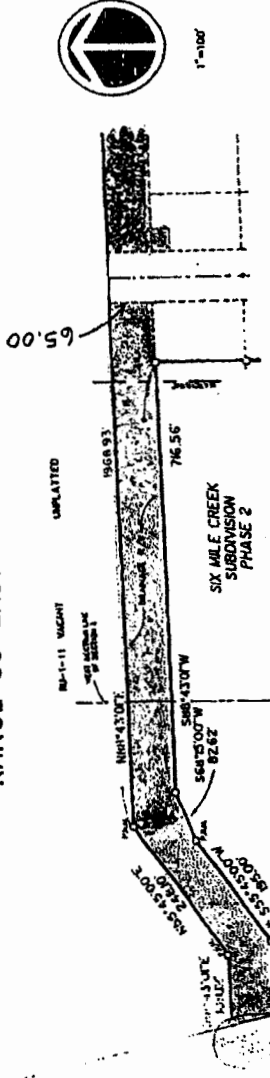
PLAT BOOK 35 AND PAGE 701

**REZONING**

NOTICE TO APPLICANT: The Board of County Commissioners, Brevard County, Florida, has received your application for rezoning of the property described as follows: ...

# SIX MILE CREEK SUBDIVISION - PHASE I

## SECTION 3 AND 4, TOWNSHIP 26 SOUTH, RANGE 36 EAST OF BREVARD COUNTY, FLORIDA



1" = 33' (300' R/W)

LOT	AREA	PERCENT	ADJACENT TO
1	1.21	0.18	12
2	1.21	0.18	12
3	1.21	0.18	12
4	1.21	0.18	12
5	1.21	0.18	12
6	1.21	0.18	12
7	1.21	0.18	12
8	1.21	0.18	12
9	1.21	0.18	12
10	1.21	0.18	12
11	1.21	0.18	12
12	1.21	0.18	12
13	1.21	0.18	12
14	1.21	0.18	12
15	1.21	0.18	12
16	1.21	0.18	12
17	1.21	0.18	12
18	1.21	0.18	12
19	1.21	0.18	12
20	1.21	0.18	12
21	1.21	0.18	12
22	1.21	0.18	12
23	1.21	0.18	12
24	1.21	0.18	12
25	1.21	0.18	12
26	1.21	0.18	12
27	1.21	0.18	12
28	1.21	0.18	12
29	1.21	0.18	12
30	1.21	0.18	12
31	1.21	0.18	12
32	1.21	0.18	12
33	1.21	0.18	12
34	1.21	0.18	12
35	1.21	0.18	12
36	1.21	0.18	12
37	1.21	0.18	12
38	1.21	0.18	12
39	1.21	0.18	12
40	1.21	0.18	12
41	1.21	0.18	12
42	1.21	0.18	12
43	1.21	0.18	12
44	1.21	0.18	12
45	1.21	0.18	12
46	1.21	0.18	12
47	1.21	0.18	12
48	1.21	0.18	12
49	1.21	0.18	12
50	1.21	0.18	12

**EASEMENTS:**

ALL EASEMENTS: That the easement shown on this plat is a permanent easement for the use of the Six Mile Creek Subdivision Phase I, and that the easement shall be used in accordance with the provisions of the plat and the rules and regulations of the Board of County Commissioners.

**CERTIFICATE OF REVISION**  
BY SUBMITTER

**CERTIFICATE OF APPROVAL BY BOARD OF COUNTY COMMISSIONERS**  
THIS IS TO CERTIFY that the Board of County Commissioners has approved the rezoning of the property described as follows: ...

**CERTIFICATE OF APPROVAL BY PLANNING AND ZONING COMMISSION**  
This is to certify that the Planning and Zoning Commission has approved the rezoning of the property described as follows: ...

**CERTIFICATE OF CLERK**  
I HEREBY CERTIFY that I have examined the foregoing plat and find it to conform to the laws of the State of Florida and the rules and regulations of the Board of County Commissioners.

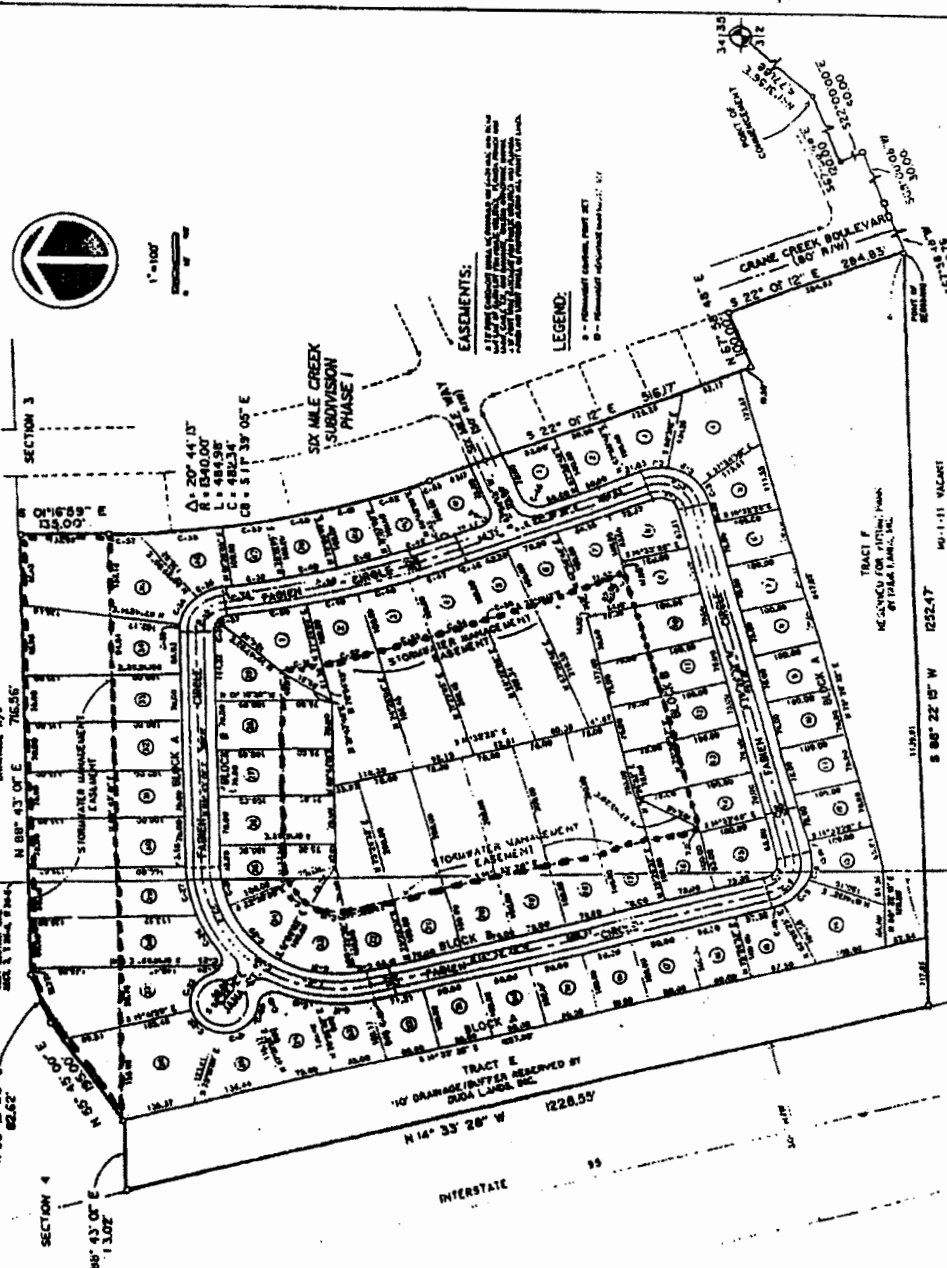


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EXHIBIT A-1

# SIX MILE CREEK SUBDIVISION - PHASE II

## SECTION 3 AND 4, TOWNSHIP 26 SOUTH, RANGE 36 EAST OF BREVARD COUNTY, FLORIDA



**LEGAL DESCRIPTION:**

TRACT F BEING PART OF SECTION 3 AND 4, TOWNSHIP 26 SOUTH, RANGE 36 EAST OF BREVARD COUNTY, FLORIDA.

TRACT	AREA (SQ. FT.)	AREA (AC.)	OWNER
1	1,234.56	0.028	...
2	1,234.56	0.028	...
3	1,234.56	0.028	...
4	1,234.56	0.028	...
5	1,234.56	0.028	...
6	1,234.56	0.028	...
7	1,234.56	0.028	...
8	1,234.56	0.028	...
9	1,234.56	0.028	...
10	1,234.56	0.028	...
11	1,234.56	0.028	...
12	1,234.56	0.028	...
13	1,234.56	0.028	...
14	1,234.56	0.028	...
15	1,234.56	0.028	...
16	1,234.56	0.028	...
17	1,234.56	0.028	...
18	1,234.56	0.028	...
19	1,234.56	0.028	...
20	1,234.56	0.028	...
21	1,234.56	0.028	...
22	1,234.56	0.028	...
23	1,234.56	0.028	...
24	1,234.56	0.028	...
25	1,234.56	0.028	...
26	1,234.56	0.028	...
27	1,234.56	0.028	...
28	1,234.56	0.028	...
29	1,234.56	0.028	...
30	1,234.56	0.028	...
31	1,234.56	0.028	...
32	1,234.56	0.028	...
33	1,234.56	0.028	...
34	1,234.56	0.028	...
35	1,234.56	0.028	...
36	1,234.56	0.028	...
37	1,234.56	0.028	...
38	1,234.56	0.028	...
39	1,234.56	0.028	...
40	1,234.56	0.028	...
41	1,234.56	0.028	...
42	1,234.56	0.028	...
43	1,234.56	0.028	...
44	1,234.56	0.028	...
45	1,234.56	0.028	...
46	1,234.56	0.028	...
47	1,234.56	0.028	...
48	1,234.56	0.028	...
49	1,234.56	0.028	...
50	1,234.56	0.028	...

PLAT BOOK 36  
AND PAGE 93

**DEDICATION**  
I, the undersigned, being the owner of the land described herein, do hereby dedicate to the public the right of way for the road shown on this plat, to be known as Crane Creek Boulevard, and the right of way for the easement shown on this plat, to be known as Stormwater Management Easement. This dedication is made in full and final settlement of all claims of the donor and the donee, and the donee shall have the right to use the same for the purposes herein stated, and the donor shall have no right to interfere with the same in any way.

**CERTIFICATE OF APPROVAL BY BOARD OF COUNTY COMMISSIONERS**  
This is to certify that the Board of County Commissioners has approved the plat of the Six Mile Creek Subdivision, Phase II, as shown on this plat, and that the same complies with the provisions of the laws of the State of Florida relating to the subdivision of land.

**CERTIFICATE OF APPROVAL BY MUNICIPALITY**  
This is to certify that the Municipality of Brevard County, Florida, has approved the plat of the Six Mile Creek Subdivision, Phase II, as shown on this plat, and that the same complies with the provisions of the laws of the State of Florida relating to the subdivision of land.

**CERTIFICATE OF APPROVAL BY BOARD OF ASSASSIANCE OF RESIDENTS**  
This is to certify that the Board of Assassiance of Residents has approved the plat of the Six Mile Creek Subdivision, Phase II, as shown on this plat, and that the same complies with the provisions of the laws of the State of Florida relating to the subdivision of land.

**CERTIFICATE OF APPROVAL BY**  
This is to certify that the Board of Assassiance of Residents has approved the plat of the Six Mile Creek Subdivision, Phase II, as shown on this plat, and that the same complies with the provisions of the laws of the State of Florida relating to the subdivision of land.

**CERTIFICATE OF APPROVAL BY**  
This is to certify that the Board of Assassiance of Residents has approved the plat of the Six Mile Creek Subdivision, Phase II, as shown on this plat, and that the same complies with the provisions of the laws of the State of Florida relating to the subdivision of land.

**CERTIFICATE OF APPROVAL BY**  
This is to certify that the Board of Assassiance of Residents has approved the plat of the Six Mile Creek Subdivision, Phase II, as shown on this plat, and that the same complies with the provisions of the laws of the State of Florida relating to the subdivision of land.

**CERTIFICATE OF APPROVAL BY**  
This is to certify that the Board of Assassiance of Residents has approved the plat of the Six Mile Creek Subdivision, Phase II, as shown on this plat, and that the same complies with the provisions of the laws of the State of Florida relating to the subdivision of land.

**EDUCATION**

ALL LAND HEREIN IS BEING OFFERED FOR THE CONSTRUCTION AND IMPROVEMENT OF THE PROJECT DESCRIBED HEREIN AS A CONDITION TO THE SALE OF SAID LAND, THE BUYER OF SAID LAND SHALL BE RESPONSIBLE FOR THE FULFILLMENT OF THE OBLIGATIONS AND CONDITIONS HEREIN SET FORTH.

**BY MUNICIPALITY**

THIS IS TO CERTIFY that the foregoing is a true and correct copy of the original as recorded in the Office of the County Clerk, Dade County, Florida, on the 14th day of May, 1998.

**CITY CLERK**  
 Dade County, Florida  
 300 W. Washington St., Miami, FL 33136

**BY BOARD OF COUNTY COMMISSIONERS**

THIS IS TO CERTIFY that the Board of County Commissioners has reviewed the foregoing and has approved the same for recording in the Office of the County Clerk, Dade County, Florida, on the 14th day of May, 1998.

**BOARD OF COUNTY COMMISSIONERS**  
 Dade County, Florida  
 255 W. Washington St., Miami, FL 33136

**CERTIFICATE OF APPROVAL BY PLANNING AND ZONING COMMISSION**

This Commission has reviewed the foregoing and has approved the same for recording in the Office of the County Clerk, Dade County, Florida, on the 14th day of May, 1998.

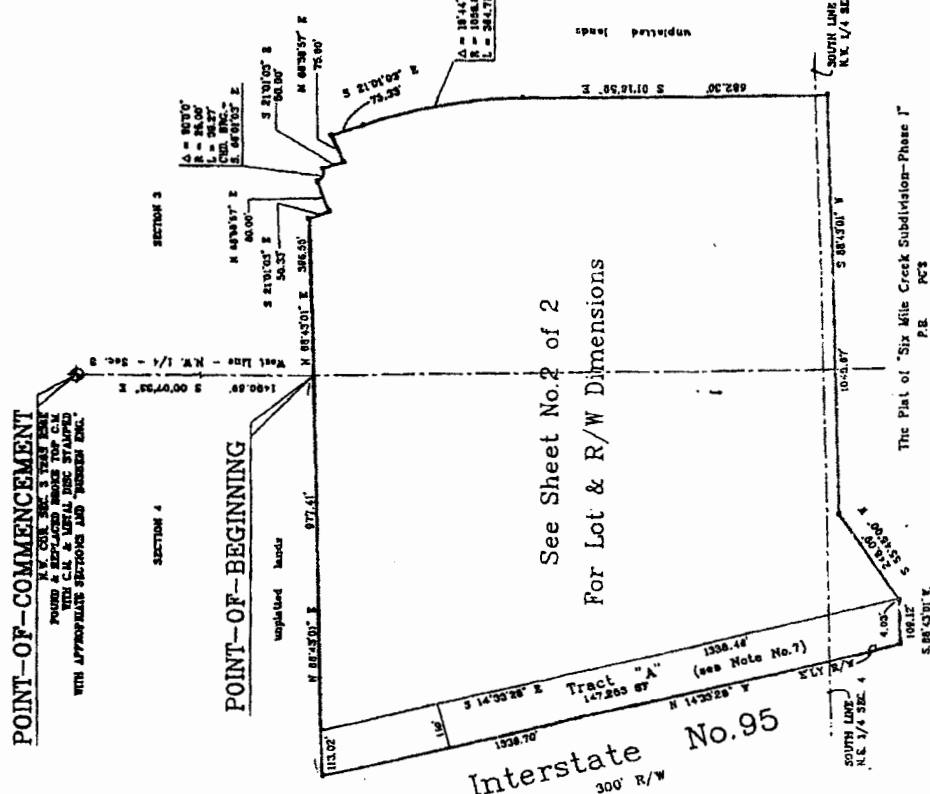
# Six Mile Creek Subdivision Phase III

*A Subdivision lying within the Third and Fourth Sections of the Twenty-sixth Township South of the Thirtieth Range East of the County of Broward in the State of Florida.*

A parcel of land lying in Sections 3 and 4, Township 26 South, Range 35 East, Broward County, Florida, being more particularly described as follows:

Commence at the Northwest corner of the Northeast 1/4 of said Section 3; thence 2397.57', coincident with the West line of said Acreage 1/4, a distance of 1666.60' to the Point-of-Beginning of the said North boundary line; thence S 49° 15' 12" E, a distance of 984.57' to a station of 102.13' feet; thence S 82° 22' 37" E, a distance of 1065.23' to a station of 102.13' feet; thence S 10° 11' 15" E, a distance of 1065.23' to the Point-of-Beginning of the said East boundary line; thence S 10° 11' 15" E, a distance of 1065.23' to a station of 102.13' feet; thence S 82° 22' 37" E, a distance of 984.57' to a station of 102.13' feet; thence S 49° 15' 12" E, a distance of 984.57' to the Point-of-Beginning of the said North boundary line; thence S 49° 15' 12" E, a distance of 984.57' to the Point-of-Beginning of the said North boundary line.

- NOTES:**
- 1) Bearings shown herein are based on the True Meridian.
  - 2) Bearings shown herein are based on the True Meridian.
  - 3) There may be additional restrictions that are not shown on this plat that may be found in the Public Records of this county.
  - 4) There is hereby reserved to the owner of said lot or lots, the right to use the same for any purpose, and the maintenance of public utilities and drainage, water and sewerage lines.
  - 5) All public utility easements shall also be easements for telephone service, and Southern Bell easements shall be used as a building site, the easements held by said utility shall revert to the proprietor of said building site.
  - 6) "A" is a lot reserved for Orange and Bouffier streets, and to hereby reserved for Orange and Bouffier streets.
  - 7) "B" denotes the holding of a Permanent Easement.
  - 8) "C" denotes the holding of a Permanent Easement.
  - 9) "D" denotes the holding of a Permanent Easement.
  - 10) "E" denotes a non-utility easement.
  - 11) "F" denotes a non-utility easement.
  - 12) "G" denotes a non-utility easement.
  - 13) The Point-of-Beginning of the said subdivision is located at the intersection of the lines of the said Acreage 1/4 and the North line of the said Section 3.
  - 14) The Point-of-Beginning of the said subdivision is located at the intersection of the lines of the said Acreage 1/4 and the North line of the said Section 3.
  - 15) The Point-of-Beginning of the said subdivision is located at the intersection of the lines of the said Acreage 1/4 and the North line of the said Section 3.
  - 16) The Point-of-Beginning of the said subdivision is located at the intersection of the lines of the said Acreage 1/4 and the North line of the said Section 3.
  - 17) The Point-of-Beginning of the said subdivision is located at the intersection of the lines of the said Acreage 1/4 and the North line of the said Section 3.
  - 18) The Point-of-Beginning of the said subdivision is located at the intersection of the lines of the said Acreage 1/4 and the North line of the said Section 3.
  - 19) The Point-of-Beginning of the said subdivision is located at the intersection of the lines of the said Acreage 1/4 and the North line of the said Section 3.
  - 20) The Point-of-Beginning of the said subdivision is located at the intersection of the lines of the said Acreage 1/4 and the North line of the said Section 3.



CFN 2002312155  
 OR Book/Page: 4759 / 1379









SPECIFICATIONS FOR DOCKS  
SIX MILE CREEK HOA  
DECEMBER, 1992

1. All dock construction must be pre-approved by ARB. Submit drawing and site plan showing proposed location of dock. All dimensions must be clearly marked and scale indicated.
2. ARB approval does not affect Brevard County Building Dept. approval and Owner must comply with County regulations.
3. Maximum size - 10 ft. x 12 ft. With no more than 12 ft. extending out over the water.
4. Minimum size - 4 ft. x 6 ft.
5. Dock should be centered on the width of the lot; if not centered then a minimum of 20 ft. on each side for setback shall be observed.
6. Materials - Only pressure treated marine lumber, 2 x 2, 4 x 4, and 2 x 6 shall be used; galvanized screws or nails.
7. Owners that build docks must keep area under the dock clean and grasses trimmed; lake management shall not be responsible for spraying under dock area.
8. Docks must be maintained and in good condition; failure to do so could result in HOA claiming that the dock is an eyesore and demand removal of same. If Owner does not maintain dock and it becomes unsightly HOA shall have the right to demand removal and, after proper written notice is given, HOA may remove and lien property for the cost of removal and



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EXHIBIT B