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KAREN E. RUSHING

CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA

SIMPLIFILE

Receipt # 2275603

**FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS  
AND RESTRICTIONS FOR RED HAWK RESERVE**

THIS FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS FOR RED HAWK RESERVE is made by RED HAWK RESERVE HOMEOWNER'S ASSOCIATION, INC., a Florida corporation not for profit, and is joined by the entities executing same hereunder.

**WITNESSETH:**

**WHEREAS**, Developer intended to improve, develop and subdivide a tract of land located in Sarasota County, more particularly described in Exhibit "A" attached hereto (the "Property"), to be known as "Red Hawk Reserve" and thereafter did grant, sell and convey subdivided portions of such Property for residential purposes, and such other purposes as may be deemed appropriate by Developer, as set forth herein; and

**WHEREAS**, Developer did plat a Subdivision known as "Red Hawk Reserve" and established protective covenants and restrictions governing and controlling the development, improvement, usage and occupancy of the Lots and Parcels contained in the Subdivision as shown on the Plat for the benefit and protection of the Subdivision and the purchasers of Lots in the Subdivision; and

**WHEREAS**, by the terms of the Declaration, it may not be modified nor amended in a manner which may increase, decrease, modify or otherwise affect in any manner any rights or obligations of the Developer, the Owner of the Adjacent Property, the Owner of the Golf Course Parcel, or the Owner of the Clubhouse Parcel, and as a result each of those entities is a signatory hereunder;

**WHEREAS**, the Developer did declare that the Property described in Article I be bound by and subject to the restrictions, limitations, conditions, covenants, easements, reservations and agreements set forth in a Declaration of Covenants and Restrictions for Red Hawk Reserve, which was recorded in Official Records Instrument #2004196840 (the "Declaration of Covenants"), as amended by that certain First Amendment to Declaration of Covenants and Restrictions for Red Hawk Reserve, recorded in Official Records Instrument #2006070009 (the "First Amendment"), and as further amended by that certain First Amendment to Declaration of Covenants and Restrictions for Red Hawk Reserve, recorded in Official Records Instrument #2007036421 (the "Second Amendment"), and as

further amended by that certain Second Amendment to Declaration of Covenants and Restrictions for Red Hawk Reserve, recorded in Official Records Instrument #2012165012 (the "Third Amendment") and as further amended by that certain Fourth Amendment to Declaration of Covenants and Restrictions for Red Hawk Reserve, recorded in Official Records Instrument #2013060121 (the "Fourth Amendment"), and did declare that the Property shall be held, used, occupied and enjoyed subject to, and with the benefit and advantage of, the following restrictions, limitations, conditions, covenants, easements and agreements, which shall constitute covenants running with the title to said property, to wit:

**ARTICLE I**  
**PROPERTY SUBJECT TO THIS DECLARATION**

The Property that shall henceforth be held, transferred, sold, conveyed, mortgaged, used and occupied subject to the terms of this Declaration is located in Sarasota County, Florida, and is legally described more specifically on Exhibit "A", attached hereto and made a part hereof. The Property, together with such other additional property as may be made subject to the terms of this Declaration pursuant to Article IV below, shall sometimes hereinafter be referred to as the "Subdivision."

**ARTICLE II**  
**DEFINITIONS**

**Section 2.1.** "Adjacent Property" shall mean that certain real property described on Exhibit "F", attached hereto, which is adjacent to the Property".

**Section 2.2.** "Articles" or "Articles of Incorporation" shall mean the Articles of Incorporation for Red Hawk Reserve Homeowners' Association, Inc. a Florida corporation not for profit, a certified, true and correct copy of which is attached hereto as Exhibit "B".

**Section 2.3.** "Association" or "Owners' Association" shall mean and refer to Red Hawk Reserve Homeowners' Association, Inc., a Florida corporation not for profit, which will manage and operate not only the Subdivision but also all subsequent phases thereof.

**Section 2.4.** "Board of Directors" or "Board" shall mean the Board of Directors of Red Hawk Reserve Homeowners Association, Inc., a Florida corporation not for profit.

**Section 2.5.** "Bylaws" shall mean the Bylaws of Red Hawk Reserve Homeowners' Association, Inc., a Florida corporation not for profit, a true and correct copy of which is attached hereto as Exhibit "C".

**Section 2.6.** "Clubhouse Parcel" shall mean Parcel "A" as described and depicted on the Plat.

**Section 2.7.** "Common Areas" shall mean all of the Property other than the Lots, including open space as designated on the Plat. Such Common Areas shall also include the easement rights upon, over, under, through and across such

Lots as set forth herein or as labeled and depicted on the Plat, along with any and all improvements to and facilities located upon such Common Areas.

**Section 2.8.** "Corps" shall mean the United States Army Corps of Engineers.

**Section 2.9.** "County" shall mean Sarasota County, Florida.

**Section 2.10.** "Declaration" shall mean this First Amended and Restated Declaration of Covenants and Restrictions for Red Hawk Reserve.

**Section 2.11.** "Developer" shall mean and refer to Red Hawk Reserve, L.L.C., a Florida limited liability company, and its designees, successors and/or assigns.

**Section 2.12.** "Environmental Resource Permit" or "ERP" shall mean the Environmental Resource Permit No. 43023886.000 for Red Hawk Reserve, dated January 28, 2003 issued by the Southwest Florida Water Management District, as it may be amended from time to time.

**Section 2.13.** "Golf Course Parcel" shall mean the real property described in Exhibit "D" attached hereto.

**Section 2.14.** "Lot" or "Lots" shall mean and refer to a Lot or Lots in the Subdivision respectively.

**Section 2.15.** "Member" or "Owner" shall mean and refer to those persons, corporations, or other legal entities, having record title to a Lot or Parcel.

**Section 2.16.** "Owner of the Adjacent Property" shall mean the record owner(s) of the Adjacent Property, its/their designees, successors and/or assigns.

**Section 2.17.** "Owner of the Adjacent Property" shall mean the record owner(s) of the Adjacent Property, its/their designees, successors and/or assigns.

**Section 2.18.** "Owner of the Clubhouse Parcel" shall mean the record owner(s) of the Clubhouse Parcel, its/their designees, successors and/or assigns.

**Section 2.19.** "Owner of the Golf Course Parcel" shall mean the record owner(s) of the Golf Course Parcel, its/their designees, successors and/or assigns.

**Section 2.20.** "Plat" shall mean and refer to the Plat of Phase I of the Subdivision recorded in Plat Book 44, Pages 41-41F of the Public Records of Sarasota County, Florida, and the Plat of Phase II of the Subdivision recorded in Plat Book 46, Pages 1 to 1F, of the Public Records of Sarasota County, Florida, and the Plat of Phase III of the Subdivision recorded in Plat Book 48, Page 15 – 15c of the Public Records of Sarasota County, Florida.

**Section 2.21.** "Site and Development Plan" shall mean the Concurrent Subdivision Plan Approval issued by the County dated August 4, 2003, and the accompanying construction plans as for construction of the Red Hawk Reserve subdivision pursuant to Application No. PRJ2002-00911.

**Section 2.22.** "Subdivision" shall mean and refer to Red Hawk Reserve subdivision, Phase I, II and III, as per the plat thereof recorded in the Public Records of Sarasota County, Florida, and all subsequent phases thereof, that may be subsequently developed and platted and submitted to and made subject to and included within the property subject to this Declaration.

**Section 2.23.** "Surface Water Management System" shall mean and refer to all of the Common Areas and improvements thereon or thereto that are designated as "Private Drainage and Access Easement," "Public Drainage and Access Easement," "Private Drainage and Maintenance Access Easement," "Public Drainage and Maintenance Access Easement," "Private Access Drainage and Public Utility Easement," "Private Road Drainage and Public Utility Easement," "Lake and Drainage Easement," and/or "Preserve Area" on the Plat and any other areas described and depicted in the Environmental Resource Permit or the drawings, plans, and specifications submitted to SWFWMD in connection with such Environmental Resource Permit and approved by SWFWMD, and which are used for the control and management of surface waters of the Subdivision and other properties pursuant to permits issued by the County and SWFWMD.

**Section 2.24.** "SWFWMD" shall mean the Southwest Florida Water Management District and its successors and/or assigns.

**Section 2.25.** "USACOE Permit" shall mean Permit No. 200202456 (IP-MGH) issued by the United States Army Corps of Engineers for Red Hawk Reserve subdivision, dated July 29, 2003.

### **ARTICLE III** **REQUIRED MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION**

In order to effectuate the orderly development of the Subdivision and to establish, protect and preserve the quality of the Subdivision, the Owners of all Lots in the Subdivision shall automatically become Members of the Association upon taking title to any Lot in the Subdivision.

The purpose and objective of the Association is to insure to all of its Members a continuing and concerted program for the maintenance and management of Common Areas, and to enforce these restrictions wherever applicable and appropriate, so as to establish, protect and preserve the quality of the Subdivision, and to perform such other duties as may be assigned to it under its Articles of Incorporation and Bylaws and this Declaration.

The Association shall have the right to levy assessments for the maintenance, repair and replacement of Common Areas and all other lawful purposes and to enforce collection thereof by placing liens against Lots in the Subdivision as set forth herein.

**ARTICLE IV**  
**BUILDING AND USE RESTRICTIONS**

**Section 4.1.**            Common Areas. In connection with the development of the Property, certain land areas, referred to as "Common Areas," have been set aside or dedicated to the Owners on the Plat and are intended for the common use, enjoyment, and benefit of all Owners in the Subdivision as well as the owners of other properties as set forth herein. The Common Areas may include, by way of illustration and not by way of limitation, roads, private access, drainage, and public utility easements, surface water retention areas, eagle management areas, conservation areas, preserve areas, private lake and drainage easements, and other open areas. Common Areas are those Tracts shown on the Plat that are described in Article VI below and additional Tracts or other lands depicted and dedicated to the Owners on the Plat as it may be amended from time to time, or on future phases of the Subdivision as those phases may be added in the future.

**Section 4.2.**            Residential Use. The Lots subject to this Declaration may be used for single family residential living units and for no other purpose. The term "single family" shall mean persons related by blood, marriage, or adoption living together as a single family; or not more than six (6) unrelated persons. If the term "single family" used in the County Zoning Regulations, as they may be amended from time to time, has a more restrictive definition than that set forth herein, then the County Zoning Regulations shall prevail. No business or commercial building may be erected on any Lot, Parcel or Tract. No business, occupation, or profession may be conducted on any Lot, Parcel, or Tract or any part thereof.

**Section 4.3.**            No Trailers or Temporary Buildings. No tents, trailers, vans, shacks or temporary or accessory buildings or structures shall be erected or permitted to remain on any Lot without the written consent of the Association.

**Section 4.4.**            Water and Sewer. All buildings shall use and be connected to the central water and sewerage system made available by and through the Sarasota County Utilities Department. No well shall be drilled or utilized on any Lot for any purpose, and no septic tank shall be installed, used or maintained on any Lot.

**Section 4.5.**            Dwellings. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling which dwelling shall not exceed 35 feet in height nor exceed three (3) stories in height as measured from grade. Unless approved by the Association in writing as to use, location and architectural design, no garage, tool or storage room, pool house, cabana, gazebo or other structure may be constructed separate and apart from a residential dwelling. No flat roofs, nor roofs having a slope of less than 6:12, nor built-up roofs shall be permitted on any building without the prior written approval of the Association. The composition of all pitched roofs shall be tile. Roofs over outdoor areas or lanais shall be constructed of the same material as the main portion of the dwelling. Screen enclosures may be used over pools and lanais. No roof over any part or all of a dwelling or any other building shall be metal. In the event a dwelling is constructed of concrete block, the concrete block must be covered with decorative cementitious finish such as stucco, or veneered with wood,

brick or stone. No asbestos shingles, siding or any type of asphaltic covering shall be used on exterior walls of any building. All materials used in the construction of any dwelling shall be new, durable products. Additions to any dwelling must be compatible in appearance to the existing dwelling. Unless otherwise approved by the Association, all heating and plumbing vents (with the exception of chimneys) shall be painted the same color as the roof. All chimneys shall be finished with material approved by the Association, and no sheet metal shall be exposed unless approved by the Association. All floor elevations for dwellings shall be subject to approval by the Association. No change in grade (whether filling or otherwise) shall be made which will adversely effect drainage of the Subdivision, any Lot, or any adjacent lots, parcels or properties.

**Section 4.6.**            Setback Line. No dwelling, building or other structure (which shall be deemed to include a porch, veranda, garage, pool, pool cage, lanai, screen enclosure, above-ground well equipment, and the like) shall be erected or placed upon any part of a Lot such that any portion of said dwelling, building or structure (excluding normal eaves or overhangs): (a) encroaches on any "building setback line" or easement denoted on the Plat of the Subdivision; (b) encroaches on any easement granted by Developer pursuant to the provisions of this Declaration of Restrictions or the Plat; (c) is closer than-twenty (20) feet to the front Lot line (which is any line adjacent to a street), is closer than six (6) feet to a side Lot line (but in no case shall the combined side lot line setbacks be less than twelve (12) feet, is closer than ten (10) feet to a rear Lot line; or (d) is constructed in violation of any setback requirements of Sarasota County then in effect. Corner Lots shall have front Lot lines adjacent to the streets, and no dwelling, building or other structure (as defined above), nor any fence, wall or hedge shall be erected on a corner Lot so that the setback from any such front Lot line adjacent to any street is less than twenty (20) feet. The remaining setbacks for such corner Lots shall be no less than six (6) feet from each remaining Lot line, but no less than twelve (12) feet combined. Notwithstanding the forgoing, to the extent that any setback requirement contained herein is more restrictive than that required by Sarasota County, the setback restrictions contained herein shall be adjusted in such a manner as to become consistent with that of Sarasota County.

**Section 4.7.**            Garages Required. No dwelling shall be constructed on any Lot without provision for an enclosed garage adequate to house at least two (2) automobiles. All garages must have door(s) that are to be maintained in a useful, working condition and which are operated by electric door opener(s). Except when garages are in actual use, garage doors must be kept closed. No garage shall be converted to any other use without the substitution of another garage complying in all respects with the terms hereof.

**Section 4.8.**            Antenna. No aerial antenna, or satellite dish shall be placed or erected upon any Lot or affixed in any manner to the exterior of any building in the Subdivision unless the plans and specifications for same have been approved by the Association. Satellite dishes greater than one meter in diameter will not be approved nor permitted.

**Section 4.9.**            Underground Wiring. No lines or wires for communication or the transmission of current shall be constructed, placed or permitted to be placed upon any Lot unless the same shall be inside a building or

underground. Electrical and utility service meters shall be screened from view from the street.

**Section 4.10.**            Screening of Air Conditioner Compressors, Garbage Container, Clothes Drying and Pool Equipment. All garbage or trash containers must be placed within totally enclosed or screened areas. No portion of any Lot shall be used as a drying or hanging area for laundry of any kind unless the area is shielded from public view by walls. Such walls must be attached to or adjoin the dwelling house and must not exceed six (6) feet in height. No window or wall air conditioning units shall be permitted on any Lot without the written approval of the Association. Heating, ventilation, air conditioning equipment, fans and pool equipment located outside a building shall be similarly screened from view. Any lawful fuel oil and natural gas or propane gas storage tanks located on any Lot shall be underground unless otherwise permitted by the Association. Water treatment equipment, water storage tanks, well heads, pumps and pressure tanks shall be screened from view. The screening required by this paragraph shall be by such landscaping as may be permitted by the Association.

**Section 4.11.**            Driveway Construction. All dwellings shall have a driveway of stable and permanent construction of at least sixteen (16) feet in width at the entrance to the garage. All driveways must be constructed with concrete, unless prior approval for other material is obtained from the Association. Where curbs or swales are required to be disturbed for driveway entrances, they shall be immediately restored to their original grade and condition by the Lot Owner in a neat and orderly fashion acceptable to the Association. No portion of a driveway shall be located within five (5) feet of the side line of any Lot nor within five (5) feet of such line extended to the pavement of the street, unless approved by the Association in writing.

**Section 4.12.**            Games and Accessory Structures. All basketball backboards and all other games and play structures, whether fixed or portable, shall be located at the rear of the dwelling, screened from view by landscaping, and shall not occupy a land surface area of more than 400 square feet without the written approval of the Association. No platform, dog house, playhouse, basketball backboard, game, play structure, or other structure of a similar kind or nature shall be constructed on any part of a Lot located in the front or side yard or driveway of the residence constructed thereon. Lighting plans for all such areas shall be subject to Association approval and shall not cast light directly onto any adjacent Lot or Tract.

**Section 4.13.**            Post Lights. A post light of a style and type approved by the Association with a photosensitive cell shall be installed at or near the front Lot line of each Lot concurrently with the construction of a residence on such Lot. Said post light and photosensitive cell shall be kept in good working condition at all times. The post light shall be illuminated from dusk to dawn each day.

**Section 4.14.**            Mailboxes. The only mailbox that shall be erected and used on any Lot shall be one that the Association has approved for uniform use throughout the Subdivision. No other receptacle for mail, newspapers, or other similar use shall be constructed or maintained on any Lot without the approval of the Association.

**Section 4.15.**            Fences, Hedges and Walls. No fence, hedge, or wall shall be over 5 feet in height from the grade established on any Lot or Parcel at the time of an owner's purchase. No fence, wall or opaque hedge shall be constructed or maintained nearer to the street than the front wall of the residence constructed on the Lot (or in the case of corner Lots, nearer to either street than the front, side, or other wall of the residence constructed on said corner Lot), nor nearer than 20 feet from any front Lot line, whichever would cause the fence, wall or hedge to be further from the street. There shall be no chain link, hog wire, or similar type of metal fences on any Lot. The composition, location and height of any fence, hedge or wall to be constructed or maintained on any Lot shall be subject to the approval of the Association. No tree, fence, shrub, or other landscaping which substantially obstructs the vision of drivers of motor vehicles shall be placed or permitted to remain on any corner Lot.

**Section 4.16.**            Landscaping. Within a reasonable time following completion of construction of a dwelling upon a Lot, such Lot shall be sodded, landscaped, and improved with ground cover materials in accordance with a landscaping plan approved by the Association in writing. All lawns, ground cover and/or landscaping shall extend to the pavement line in front of any dwelling. Nothing herein shall be interpreted or applied to prohibit the use of Xeriscape or Florida-friendly landscape, as defined in Section 373.185(1), Florida Statutes.

**Section 4.17.**            Trees. No tree, the trunk of which exceeds four (4) inches in diameter at five (5) feet above the natural grade, shall be cut down or otherwise destroyed without the prior written consent of the Association. Further, each Lot Owner shall cause four (4) trees of a species approved by the Association with at least a two (2) inch caliper (measured five (5) feet above grade) and at least eight (8) feet in overall height to remain or to be planted on each Lot within thirty (30) days of completion of a residence on the Lot. Thereafter the Owner shall maintain such trees in good condition and replace them if necessary so that there will always be four trees of a species approved by the Association and at the minimum size established by this paragraph on each Lot.

**Section 4.18.**            No Artificial Vegetation. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot.

**Section 4.19.**            Vehicles. Cars, trucks, recreational vehicles, motorcycles, and trailers (collectively called "Vehicles") must be kept at all times on a paved driveway or inside a garage and are not permitted to be parked elsewhere on a Lot or on a street within the Subdivision except as otherwise specifically permitted in this paragraph. Boats and boat trailers must be kept at all times completely inside a garage and are not permitted to be parked elsewhere on a Lot or on a street within the Subdivision except as otherwise permitted by the Board. Private cars or private trucks (exclusive of all other Vehicles) owned by an owner or an owner's guests may be parked in the owner's driveway, but only if they do not display commercial signs or equipment. Commercial Vehicles may be parked in a street or driveway when necessary for providing services to an Owner or to the Lot, or for pickup and delivery service, but only while undertaking this activity and never overnight. Recreational vehicles, travel trailers, trailers and campers may be parked in the driveway of a Lot for loading and unloading only.



Vehicles shall not block sidewalks while parked in driveways or elsewhere in the community. No Vehicles may be repaired or maintained on or adjacent to a Lot, except within a garage. Vehicle parking on or along Subdivision roads may only be on a temporary basis to accommodate transient visitor/invitee parking and must not interfere with traffic flow. Street parking is prohibited between the hours of 10:00 p.m. and 6:00 a.m. Vehicles without current registration and license plates and vehicles not in operable condition may not be parked anywhere on a Lot or in the Subdivision other than in an enclosed garage. The Board may adopt additional rules regarding parking, speeding and vehicles in its discretion. Any Vehicles determined by the Board of Directors to be in violation of these restrictions or the Association's rules may be subject to the imposition of fines by the Board of Directors; and/or removal of the Vehicle from the property by towing at the owner's expense, in addition to any other legal or equitable remedies.

**Section 4.20.** Roadways. Except as the Association may otherwise approve in writing, and except as may be otherwise depicted on the Plat, no Lot or any portion thereof shall be open, dedicated, or used as a street, road, pathway, or other thoroughfare, whether public or private.

**Section 4.21.** Signs. No sign of any kind shall be displayed to public view on any Lot except as follows:

(a) Individual, ornamental house number plates may be displayed.

(b) A "For Sale" sign no larger than ten (10) inches in height and no more than eighteen (18) inches in width is permitted. The sign shall conform to such standard specification as may be adopted or approved by the Association from time to time. The party seeking to erect or place a sign on a Lot shall be required to purchase the sign and sign post from a vendor designated by the Association. The vendor so designated by the Association shall be the only party authorized to place or install the sign on the Owner's property. Owner's right to install a sign shall be further subjected to the following restrictions and those which may be later promulgated by the ARB (as defined in Section 6.7):

(1) The sign shall only contain the telephone number and the name of either the homeowner or the real estate company listing the property, if any;

(2) Telephone number letters shall not exceed four (4) inches in height and the lettering indicating the homeowner or real estate company shall not exceed two (2) inches in height;

(3) Color of the lettering shall be white and shall have a dark green background;

(4) One (1) sign may be located in the front of the property, no closer than fifteen (15) feet from the street pavement;

(5) All signage must be removed from the sight upon signing of a contract; and

(6) No "Sale Pending" or "Sold" signs are allowed.

Notwithstanding the foregoing, the ARB may impose additional restrictions on the placement of signs and may further require that all signs installed or placed within the Subdivision be constructed or installed by a vendor designated and approved by the Association, in order to insure conformity with these restrictions.

(c) Owners may display one portable, removable United States flag in a respectful manner, and in accordance with the U.S. Flag Code.

**Section 4.22.** Animals. No horses, cattle, swine, goats, snakes, poultry, or any other animal or fowl not customarily regarded as a household pet shall be allowed or kept on any Lot. No pet shall be permitted to roam off of the owner's Lot except on a leash. Each owner of a pet shall promptly remove and clean all animal excrement and waste resulting from its pet from all parts of the Subdivision. In the event that an Owner fails to abide by the terms of this provision or in the event that any pet becomes a safety threat or unreasonably interferes with any Lot Owner(s) quiet enjoyment of their Lot or the Common Areas, the Association may declare that Owner's pet a nuisance and require that the pet be removed from the Lot and the Subdivision.

**Section 4.23.** Grading. Sarasota County has required each Lot in the Subdivision to be graded in a specified manner. Therefore, prior to completion of construction of a residence on each Lot, the Lot Owner shall grade the Lot in conformity with the detail grading plan for such Lot as approved by Sarasota County and SWFWMD and as reflected on grading plans available from the Association.

**Section 4.24.** Building and Site Plan Approval. Prior to commencement of construction of any improvement on a Lot (including any remodeling, additions to existing improvements, fences and walls), detailed site and construction plans which shall include elevations and exterior materials, pools and solar panels, and landscape plans shall be submitted to the Association for approval for the purpose of assuring compliance with each of the requirements set forth herein. Said plans will be reviewed by the Association within thirty (30) days of receipt of same and Association shall notify the Lot owner of the approval or disapproval of such plans. In the event the Association disapproves such plan, the Association shall advise the Lot owner of the specific areas and reasons for disapproval and, where appropriate, suggest modifications and revisions to the plans that would result in approval. In the event any plans or specifications are submitted to the Association and the Association has neither approved, approved with conditions, nor disapproved such plans within thirty (30) days of such submission, such plans and specifications shall be deemed approved as submitted.

**Section 4.25.** Yard Sales. The Board, in its sole and absolute discretion, may designate two (2) dates during a calendar year to hold community wide yard or garage sales. No other yard or garage sales shall be permitted to be held by Owners at any time.

**Section 4.26** Mowing; Other Outdoor Lot Maintenance. No mowing, landscape or other type of outdoor lot maintenance, that may be seen or heard by others, may be performed by contractors or other service personnel on Sundays or the holidays as selected by the Board, in its sole discretion, without prior written approval by the Board. The holidays that this provision applies to are:

New Year Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving, and Christmas.

**Section 4.27.** Holiday Decorations. All holiday decorations located outside a home, including but not limited to tree lights shall be removed within thirty (30) days after a holiday.

**Section 4.28.** Irrigation Water Restrictions. The Association hereby reserves the right to adopt rules to impose irrigation water restrictions as it determines are reasonable in its sole and absolute discretion. Any violation of rule may result in the imposition of fines, which fines shall be in addition to any fines that may be imposed or levied by Sarasota County.

**Section 4.29.** Rental Restrictions. In order to better protect the single family residential character of the community, all home leases shall be for a minimum term of one (1) year and must be in written form. The Association shall be provided with a copy of all leases and proper contact information for the tenant and Owner, prior to the commencement of the tenant's occupancy. No lease shall be effective until approved in writing by the Association. Each Owner shall submit the lease, along with such application for approval as the Association may require, together with an application fee of \$ 100 or, if and to the extent it is legally permissible, such a greater amount as the Association may from time to time determine. An Owner shall not lease less than an entire home. Individual rooms or other portions of any improvements shall not be leased. Subleasing and assignments of a home are prohibited without prior written approval of the Board of Directors. The Association shall have the right to terminate any lease upon default by the tenant or Owner in observing any of the provisions of the Declaration, the Articles of Incorporation, Bylaws or Rules and Regulations of the Association, all as amended from time to time ("Governing Documents"). The provisions of the Governing Documents shall be deemed to be automatically included in all leases. The Association may bring a legal action to terminate a lease and/or evict a tenant, for violation of any of the Governing Documents and it is authorized to act as the authorized agent of the Owner of the Lot on which the home is located. If the Association prevails, it shall recover its costs and reasonable attorney's fees, jointly and severally, from the Owner of the Lot on which the home is located and the tenant(s). The Board of Directors, in its sole and absolute discretion, may deem any long term guests of Owners as tenants and any tenant restrictions and remedies shall be applicable. No Owner shall enter into any agreement for the rental of any Lot, Parcel or portion of any Lot or Parcel, or any structure thereon, until the 366<sup>th</sup> day following the date that the Owner took title to any Lot or Parcel.

## **ARTICLE V** **SURFACEWATER MANAGEMENT SYSTEM**

**Section 5.1.** Southwest Florida Water Management District (SWFWMD).

(a) It shall be the responsibility of each Lot owner within the Subdivision at the time of construction of any dwelling or structure, to comply with the construction plans for the surface water management system pursuant to Chapter 40D-4, Florida Administrative Code, approved and on file with SWFWMD (the "Surfacewater Management System").

(b) No owner of a Lot within the Subdivision may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, buffer areas, and upland conservation areas described in the Environmental Resource Permit and/or Plat, unless prior approval is received from SWFWMD pursuant to Chapter 40D-4, Florida Administrative Code and Sarasota County's Resource Protection office.

(c) No owner of a Lot within the Subdivision shall remove native vegetation (including cattails) that becomes established within the wet detention ponds in the Subdivision. Removal includes dredging, the application of herbicide, cutting, and/or the introduction of grass. Lot owners shall address any questions regarding authorized activities within the wet detention ponds to SWFWMD, Surface Water Regulation Manager, and Sarasota County's Resource Protection office.

**Section 5.2.**            Surfacewater Management System. No portion of the Surfacewater Management System shall be altered without prior written authorization of SWFWMD and the County Engineer or his designee.

The Surfacewater Management System, including all lakes, ponds, swales, drainage control devices, retention areas and littoral zones shall be maintained in good order and repair and in conformity with all applicable governmental regulations.

In the event the Association, or any successor organization shall fail to adequately maintain the Surfacewater Management System in accordance with SWFWMD standards, SWFWMD shall have the right, but not the obligation, to enter the Subdivision for the purpose of maintaining the Surfacewater Management System. All expenses incurred by SWFWMD in maintaining the Surfacewater Management System shall be assessed equally against the Lots and shall be payable by the Owners of the Lots within 60 days after receipt of a statement therefor. If any Owner fails to pay such assessment within such 60 day period, SWFWMD may record a lien against such Owner's Lot in the Public Records of Sarasota County, Florida, whereupon the assessment shall become a lien on such Owner's Lot which may be foreclosed in the same manner as a mortgage may be foreclosed under Florida law. The rights of SWFWMD contained in this Declaration shall be in addition to any other rights SWFWMD may have in regulating the operation and development of the Subdivision.

**Section 5.3.**            Sarasota County Enforcement Powers. In the event the Association, or any successor organization, shall fail to adequately maintain, repair and replace the Surfacewater Management System in accordance with County standards and requirements, the County shall have the right, but not the obligation, to enter the Subdivision for the purpose of maintaining, repairing or replacing the Surfacewater Management System. All expenses incurred by the County in maintaining, repairing or replacing the Surfacewater Management System shall be assessed proportionately (cost / total number of lots) against the Lots and shall be payable and paid by the Owners of the Lots within 60 days after receipt of a statement therefor from the County. The Association may not amend this Declaration in any manner which would affect the Surfacewater Management System, without the prior written approval of the County Administrator or his/her

authorized designee, and SWFWMD. No portion of the Surfacewater Management System may be altered without the prior written approval of the County Engineer or his/her authorized designee.

**Section 5.4.** Individual Responsibility of Owners. If the Association ceases to exist for any reason, all of the Owners shall be jointly and severally responsible and obligated for the continued operation, maintenance, repair and replacement of the Surfacewater Management System in accordance with the requirements of the Environmental Resource Permit issued by SWFWMD, unless and until an alternate entity acceptable to SWFWMD assumes responsibility.

## **ARTICLE VI** **MAINTENANCE OF LOTS**

**Section 6.1.** Nuisances. Nothing shall be done or permitted to be done or maintained, or failed to be done, on any Lot which may be or become a nuisance to other Owners of Lots in the Subdivision. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Board of Directors of the Association which shall render a decision in writing, and such decision shall be dispositive of such dispute or question.

**Section 6.2.** Maintenance of Lots and Landscaping. Maintenance of Lots and Landscaping. No weeds, underbrush or other unsightly shall be permitted to grow or remain to be uncut or not mowed upon any Lot, and no refuse pile or unsightly objects shall be allowed to be placed or remain anywhere thereon. The Owners of the Lots in the Subdivision shall be responsible for the maintenance of all areas located between (a) between the respective Lot lines and the pavement of the street or streets adjacent to their Lot and; (b) between their respective Lot lines and the maintained area of any wetlands, preserve area, other Common Area, any barrier wall or the water of any lake. All Lot Owners shall maintain their hedges, plants, lawns, and shrubs in a neat and trim condition at all times.

**Section 6.3.** Maintenance of Improvements. Lot owners shall maintain their residences and all other improvements, including, without limitation, walls, fences, screen enclosures, driveways, and accessory structures, in good appearance and safe condition, and the repair of any damage, deterioration, or evidence of wear and tear on the exterior of any building shall be made promptly. All roofs, sidewalks and driveways shall be kept free of any mildew, excessive dirt, chalking, staining, excessive rust deposits, peeling of paint or discoloration and must be power washed or otherwise cleaned, if such discoloration is visible from the street.

**Section 6.4.** Boarding up Residences. Dwellings may be boarded up only during the time of imminent threat of tropical storm and/or hurricane, but in no event shall remain boarded up for periods exceeding forty-eight hours beyond the threat of storm.

**Section 6.5.** Maintenance and Repair by Association. In the event any owner shall fail or refuse to maintain his residence, Lot, or other improvements situated on such Lot in full compliance with the provisions of this Declaration, the Association shall have the right to take remedial action to correct any such deficiencies. Such right shall include the right of reasonable access to the premises,

and any such entry by the Association or its duly authorized agents shall not be deemed to be a trespass. The expense of any such repairs or maintenance performed by the Association shall be chargeable to and paid by the owner of the Lot to the Association within thirty (30) days after submission of a bill therefor. If any such bill is not paid when due, a late charge of ten percent (10%) shall be added to the bill and interest shall accrue thereon from the due date until paid at the maximum rate permitted by law. Such charges may be enforced by the Association by recording a Claim of Lien in the Public Records of the County against such Owner's Lot, which Claim of Lien may be foreclosed as a mortgage is foreclosed under Florida law.

**Section 6.6.**            Regulations During Construction. No obstruction of any kind shall exist or remain within any swale area, right-of-way or easement within the Lot. During construction upon the Lot, the Lot shall be maintained in a neat and orderly manner with all construction debris contained in a receptacle. Construction upon the Lot shall be conducted in such manner that the Subdivision improvements shall not be altered or damaged in any manner. Each Lot Owner shall indemnify the Association from and against any and all fees, costs and expenses which may be incurred in repairing or replacing Subdivision improvements damaged by the Lot Owner or to put the Lot in a clean and orderly condition.

**Section 6.7.**            Architectural Control. There is hereby established an Architectural Review Board ("ARB") as set forth below. No buildings, garages, outbuildings, sheds or other structures, landscaping, sod, grass or other ground cover, boarders, planters, irrigation systems, fences, walls, tennis courts, other athletic facilities and installations, screen enclosures, pools, patios, solar energy device, decorative structures, containers or other installations, devices, equipment, or any other improvement on a Lot that will alter the appearance of the Lot or existing improvements thereto when viewed from adjacent Lots or Common Area or an adjacent street or road (collectively the "Improvements," and individually an "Improvement") shall be constructed, reconstructed, altered, or installed until the design, materials and location thereof has first been approved in writing by the ARB.

(a) Application. Requests for ARB approval of proposed improvements shall be in writing, shall be on such application form or forms as may be promulgated from time to time by the ARB, and shall be accompanied by such plans, specifications, site plans, drawings, samples and other materials as may be reasonable required by the ARB in order to evaluate the proposal. The ARB may waive formalities in the approval process. The ARB shall review and evaluate all applications within thirty (30) days after receipt of all such materials required, and either approve, disapprove or approve in part and disapprove in part.

(b) Conditional Approval. The ARB may issue a conditional approval of proposed Improvements, specifying that the proposed Improvements will be approved, provided the Owner agrees to specified conditions. Such conditions may include, but shall not be limited to, locating the proposed Improvements at a different location within the Lot, altering colors, materials or other features of the proposed Improvement, shielding or screening proposed Improvements with landscaping, fences, walls or other materials, modifying exterior design, or such other conditions as will, in the judgement of the ARB,

make the proposed Improvements consistent with this Declaration, or that will minimize or eliminate any undesirable feature of the proposed Improvement.

(c) Time Limitations. Failure of the ARB to approve, conditionally or otherwise, or disapprove any application within thirty (30) days after receipt of all materials shall be deemed approval. No Improvements made without ARB approval shall be deemed approved unless and until the ARB shall have received an application for approval of such Improvements, together with all supporting materials and/or documents, and such application is approved by the ARB (or deemed approved as set forth in the first sentence of this paragraph 6.8.c.).

(d) Compliance with Standards. All Improvements shall comply with the mandatory provisions of this Declaration. In addition, the ARB may adopt and modify from time to time design material and locational criteria and standards for proposed Improvements (the "Architectural Design Guide"). The Architectural Design Guide shall be deemed to include any mandatory or prohibitory provisions of this Declaration. The Architectural Design Guide shall otherwise set forth matters subject to ARB review that are mandated, prohibited or approved, thereby establishing criteria that will assist Owners and provide criteria for the ARB in its review and action upon an application. It is anticipated that the Architectural Design Guide will be adopted for major elements under ARB consideration as well as lesser items of a recurring nature. The fact that the ARB has not included a particular aspect of a proposed Improvement within the Architectural Design Guide shall not preclude the ARB from taking that aspect into consideration in its review and approval or disapproval of it. Proposed Improvements which are in full compliance with elements of the Architectural Design Guide that are comprehensive with respect to such proposal may be constructed or installed without necessity of formal ARB review and approval, but only if the Architectural Design Guide so provides.

(e) Review Criteria. The ARB shall have broad discretion to approve or disapprove proposed Improvements, including the discretion to approve or disapprove on the basis of aesthetics. The Architectural Design Guide is to be a guide to the ARB, and even though an application may comply with all applicable provisions of the Architectural Design Guide, the ARB is not obligated to approve if there are other features of the application of which the ARB does not approve. The ARB may approve of an application which does not comply in all respects with all applicable provisions of the Architectural Design Guide if the ARB, in its sole judgment, determines that the proposed improvements in their entirety merit approval, and any deviation from the Architectural Design Guide will not substantially, materially and adversely affect the Owners and occupants of the Subdivision.

(f) Appeal. Unless the Board is acting as the Architectural Review Board, any Owner aggrieved by decision of the Architectural Review Board may appeal same to the Board, which shall hold a hearing within thirty (30) days, and either approve, disapprove or modify the decision of the Architectural Review Board.

(g) Procedural Matters. The ARB may adopt reasonable rules and regulations for the conduct of its authority, and the Board may establish, and modify from time to time, a reasonable schedule of fees for review by the ARB.

The ARB, with approval of the Board, may engage the services of architects, landscape architects, engineers or other design professionals, to advise the ARB in carrying out its functions. In such event, costs associated therewith may be taken into consideration in the establishment of any fee schedule. The Association shall maintain records of all ARB proceedings, and shall furnish a certificate in recordable form upon the request of any Owner verifying the compliance or noncompliance of such Owner and his Lot with the Building Review provisions of this Declaration.

(h) Control of the Architectural Review Board. The ARB shall act by simple majority vote. In the event of death, resignation or removal of any member of the ARB appointed by the Board, the Board shall appoint a successor. No member of the ARB shall be entitled to compensation for, or be liable for claims, causes of action, damages arising out of, services performed pursuant to this Declaration; provided, however, any non-Owner member serving on the ARB may be entitled to reasonable compensation, the cost of which may be taken into consideration in establishing fees for Building Review. Board appointed members of the Architectural Review Board shall serve terms established by the Board, and may be removed with or without cause by the Board.

(i) Disclaimer of Liability. Neither the Association nor the ARB or any of its members or advisors shall have any responsibility for the design or quality of materials, construction or structural soundness of any Improvements, nor compliance thereby with any governmental codes or requirements. No liability relating to the construction of Improvements shall result from the Association, the ARB, or any consultant engaged by the Association reviewing, approving, or commenting upon any proposed Improvements. Neither the Association, the ARB nor its advisors evaluate applications or proposals to determine whether same meet architectural or engineering standards, or comply with government codes and regulations, nor do they evaluate the quality of workmanship and materials.

## ARTICLE VII COMMON AREAS AND RIGHT-OF-WAY MATTERS

**Section 7.1.** Common Areas. Certain areas within the Subdivision have been set aside as "Common Areas" for the common use and enjoyment of Owners of Lots within the Subdivision, and the Association has accepted the conveyance of such Common Areas by Developer and agreed to properly maintain the Common Areas and pay all taxes assessed thereon. The obligation of the Association to maintain the Common Areas shall include the assumption of any ongoing obligations to maintain, repair, replace, or monitor any Common Areas and/or the Storm Water Management System under the Environmental Resource Permit, the USACOE Permit, or any other governmental approval, license, permit, and/or development order. All rights and obligations associated with the Surfacewater Management System and preserve areas have been transferred to the Association together with and subject to such rights as are granted to other persons, and the rights of all applicable governmental bodies including SWFWMD and Sarasota County.

**Section 7.2.** Maintenance and Usage of Common Areas. All Common Areas together with the Surfacewater Management System in the Subdivision shall be maintained by the Association, except for such portion thereof



as to which the responsibility for maintenance has been or hereafter is imposed on any other person or entity by virtue of this Declaration or other recorded instrument. Usage of the Common Areas shall be subject to such reasonable restrictions, rules, and regulations, as may be adopted by the Association, provided that such restrictions, rules and regulations are evenly applied against all Owners.

**Section 7.3.**            Conservation and Preservation Areas. All activities involving filling, excavating, removing of vegetation (both trees and understory) and storing of materials shall be prohibited within Conservation and Preserve Areas depicted on the Plat, or described in the Environmental Resource Permit, unless written approval is first obtained from the Association and Sarasota County's Resource Protection office. There shall be no use of heavy equipment or machinery during maintenance activities of any easement within Preservation Areas unless written approval is first obtained from the Association and Sarasota County's Resource Protection office.

**Section 7.4.**            Standard of Maintenance. The Common Areas shall be maintained by the Association in a clean, neat and slightly condition. No Owner, or any Owner's guests, licensees, invitees, tenants or tenants' guests, licensees or invitees, shall damage, destroy, harm, litter, or create any nuisance in the Common Areas. In the event of destruction of any of the Common Areas by flood or other disaster, they shall be replaced and restored by the Association as closely as practicable to their original condition.

**Section 7.5.**            Decisions Regarding Maintenance. Any and all decisions regarding the condition and maintenance of the Common Areas shall be made by the Association. All such maintenance must comply, at a minimum, with the requirements of any applicable laws, ordinances, rules, regulations, permits, permit conditions, permit requirements, governmental approvals, and the like, applicable to the Property.

**Section 7.6.**            Roadways. The roads and streets as depicted on the Plat shall be private roads and the use of such roads shall be as follows:

(a)     The Association hereby grants to all Owners (and their grantees or successors in interest) of the property subject to this Declaration, and to their respective guests, invitees, tenants, and domestic help, and to delivery, pickup and sanitation services while servicing the Subdivision or any Lot, to representatives of utilities while servicing the Subdivision or any Lot, to United States mail carriers while servicing the Subdivision or any Lot, to representatives of fire departments and police or sheriffs departments while servicing the Subdivision or any Lot, to emergency medical personnel while servicing the Subdivision or any Lot, and to all other necessary municipal, county, special district or federal agencies while servicing the Subdivision or any Lot, and to holders of liens on the Subdivision or any Lot subject to this Declaration, a nonexclusive and perpetual right and easement for vehicular, bicycle, and pedestrian ingress and egress over, upon, through and across all private roads located within the Subdivision as shown, described, and depicted on the Plat.

(b)     The Association hereby authorizes use of all private roads by and delegates the non-exclusive right to exercise control of traffic thereon to duly constituted law enforcement officers, and subject thereto, Association shall have

the right, but not the obligation, from time to time to control and regulate all types of traffic thereon, including the right to prohibit use by traffic which, in the opinion of Association, would or might result in damage to such roads or any part thereof, and the right, but not the obligation, to control and prohibit parking on all or any part of such private roads. The Association reserves the right to install gates, speed bumps, speed tables, speed humps and other traffic calming or traffic control devices or facilities on the roads and directional and/or identification signage adjacent to the roads within the Subdivision as it deems necessary in its sole discretion. The Association reserves the absolute right to deny ingress or egress to any person except those persons referred to in this Section 7.6; and to remove or require the removal of any fence, wall, hedge, shrub, tree, or other object, natural or artificial, placed or located on any portion of the property subject to these covenants and restrictions if the location of the same will, in the sole opinion of Association, impair the safety of or obstruct the vision of a motorist upon such private roads.

(c) In the event and to the extent that any portion of such private roads shall be dedicated to and accepted by any governmental agency or are otherwise acquired by any governmental agency on behalf of the public, the preceding provisions of this paragraph shall thereafter be of no force and effect with respect to the property so dedicated or acquired.

(d) There is an emergency access to the subdivision located at the intersection of Rock Dove Drive and State Road 72 (Clark Road) along Tract 200 (dedicated right of way) as those parcels are depicted on the Plat for Phase II of Red Hawk Reserve. Emergency personnel will have access through this entry way for response to emergency situations.

**Section 7.7.** Utility and Stormwater Drainage Easements. Any and all utility, flowage, stormwater and/or drainage easements depicted on the Plat or created hereunder, whether public or private, shall also run in favor of and shall inure to the benefit of the Owner of the Golf Course, Parcel, the Owner of the Adjacent Property and the Owner of the Clubhouse Parcel, and their respective guests, invitees, patrons, licensees, successors and/or assigns.

## **ARTICLE VIII** **EASEMENTS**

**Section 8.1.** Utility and Drainage Easements. Perpetual easements for the installation and maintenance, repair and replacement of utilities and drainage facilities are hereby reserved unto Association over all utility and drainage easement areas shown on the Plat; provided, however, that any utility or drainage facility in a wetland or preservation area will be installed only after obtaining approval from the Corps, SWFWMD and other applicable governmental agency. Moreover, a perpetual easement for the installation and maintenance of utilities, street lights, and drainage facilities is hereby reserved unto Association over, in, and under the area ten (10) feet in width on any portion of each Lot line abutting any street. The easement area of each Lot and all improvements located within it shall be maintained continuously by the owner of the Lot, except that the Association, public authority or utility company shall be responsible for maintenance, repair and replacement of any improvements made in connection with the provision of utilities, street lights, and drainage facilities. No drainage

easement, swale, wetland or preserve area may be obstructed, filled in or altered without Association's, the Corps', SWFWMD' s, and Sarasota County's written approval. Any walls, fences, paving, landscaping or other improvements constructed, placed or planted by a Lot Owner over the easement area of his Lot may be removed by Association or its assigns if required for the installation or maintenance of improvements or facilities related to the purpose for which the easement was reserved; provided, however, that Association or its assigns shall promptly restore any dislodged grass, soil, or paving as nearly as practicable to its prior condition.

**Section 8.2. Owners' Easements.** Every Owner shall have a perpetual, non-exclusive right and easement to use and enjoy the Common Areas. This right is appurtenant to and shall pass with title to each Lot, subject to the following provisions:

(a) The Association shall have the right to suspend the right of an Owner and/or an Owner's tenants, guests, or invitees to use any Common Areas for any period during which an assessment against an Owner's Lot remains unpaid; however, suspension shall not impair the right of the Owner or the tenant of an Owner to have vehicular and pedestrian ingress to and egress from the Lot, including, but not limited to, the right to park.

(b) The Association shall have the right to adopt Rules and Regulations regarding the use of the Common Areas by the Owners and their tenants and their respective, guests and invitees. These Rules and Regulations shall be binding on the Owners and their tenants and their respective guests and invitees.

#### **ARTICLE IX** **RESUBDIVIDING**

No Lot, Parcel or any other portion or part of the Property shall ever be resubdivided or replatted in any manner which would bring about a greater number of Lots than that shown on the Plat for the same area. Any such Lot may be combined with contiguous Lots or parts thereof to form a single building site and any setbacks along the former lot lines shall be applied to the resulting borders of the building site. In the event that more than one Lot is developed as a building site, the provisions of this Declaration shall apply thereto as if it were a single Lot; provided, however, that in the event that two or more Lots are combined, the share of assessments and expenses levied or charged by the Association attributable to the resulting building site shall equal the share of assessments for both of the Lots that have been combined. If a Lot is divided and the parts thereof added to other Lots, the share of assessments and expenses levied or charged by the Association attributable to such Lot shall be prorated among such other Lots on the basis of square footage of the portion of the Lot added to the other Lots.

#### **ARTICLE X** **VARIANCES**

The Association hereby reserves the right to enter into agreements with the Owner of any Lot or Lots (without the consent of the owners of other Lots, or the owners of adjoining or adjacent property) to vary those conditions, restrictions, limitations and agreements set forth herein which refer to setback lines, minimum

building square footage, easements, underground wiring, construction of improvements, building plans, landscaping, signs, maintenance, screening of garbage receptacles, clotheslines and air conditioner compressors. Any such variance shall be evidenced by an agreement in writing. The Association may grant such variance, only in such cases where it has determined in its sole discretion, that strict compliance with the applicable provision of this Declaration would constitute a hardship on that Lot Owner. Any such variance will be the minimum variance necessary to relieve such hardship. Such variance shall not constitute a waiver of any such condition, restriction, limitation or agreement as to the remaining Lots in the Subdivision, and the same shall remain fully enforceable against all Lots located in the Subdivision other than the Lot where such variance is granted.

## ARTICLE XI INSURANCE

**Section 11.1. Insurance by Association.** The Association shall obtain and continue in effect such insurance in such amounts and coverages as the Board shall from time to time determine to be appropriate, necessary or desirable. All costs associated with such insurance shall be a common expense.

**Section 11.2. Owner's Insurance.** Each Owner shall be responsible for obtaining and maintaining in effect all such casualty, liability and other insurance with respect to such Owner and such Owner's Lot as the Owner may from time to time determine to be appropriate. The association shall not obtain any such insurance on behalf of an Owner, nor shall the Association insure the Lots or improvements thereon in any manner.

**Section 11.3. Destruction of Improvements.** If any structure upon a Lot is substantially damaged or destroyed, the Owner thereof shall, within a reasonable time after such casualty, remove all debris and portions of the improvements that cannot be preserved for incorporation into the replacement structure. Dangerous conditions shall be addressed and neutralized immediately. The Owner shall either repair, rebuild or reconstruct the improvements as soon after such casualty as may be practical, or raze and remove such damaged structure. If an Owner fails to comply with this provision the Association shall have the right to do so on behalf of such Owner, and the cost thereof shall be levied against such Owner and his Lot and shall be enforceable as a special assessment with respect to that Lot.

## ARTICLE XII ASSESSMENTS BY THE ASSOCIATION

**Section 12.1. Annual Assessments.** The Association shall have the right to levy an quarterly assessment against all Lots in the Subdivision in such amounts as may be deemed appropriate by the Association's Board of Directors for the management and operation of the Association and for the general purposes and objectives of the Association as set forth herein and in the Articles of Incorporation and Bylaws.

**Section 12.2. Special Assessments.** The Association shall also have the right to levy special assessments from time to time against all Lots in the Subdivision (1) in the event the budget adopted for any fiscal year is insufficient to pay the costs and expenses of operations, maintenance, repair, replacement of the Common

Areas and the management and operation of the Association, or (2) in the event of emergencies, or (3) in the event the Association's reserves are insufficient to cover expenditures for capital improvements or replacements.

**Section 12.3. Assessments Levied Pro Rata.** All assessments levied by the Association, whether annual or special, shall be on the basis of one share per Lot so that each owner of a Lot shall bear an equal share or the expenses of the Association, subject to the provisions of Article X above.

**Section 12.4. Assessments Against New Lots.** The portion of the first annual assessment shall be due and payable for each Lot from the day such Lot is made subject to the terms hereof. With respect to any special assessments, only those Lots that are subject to the terms of this Declaration as of the date on which the Board of Directors of the Association levies the special assessment shall be liable for such special assessment, and such special assessment shall not be charged to or a lien against any Lot made subject to this Declaration after such date. Notwithstanding the foregoing, at such time as additional Lots are added to the Subdivision pursuant to the terms hereof, such Lots shall be subject to and the Owners of such Lots shall be liable for any annual assessment levied by the Association, prorated by the number of days remaining in the period for which the annual assessment is levied.

**Section 12.5. Payment of Assessments.** Procedures for the adoption of annual budget, mailing of notices of the annual assessment, and collection of such annual assessment shall be as set forth in the Association's Articles of Incorporation, and Bylaws. Payment of any special assessment levied by the Association's Board of Directors shall be due upon not less than thirty (30) day written notice thereof on the date and in such installments as the Board of Directors may specify. Any assessment, whether annual or special, which is not paid when due shall be subject to a late charge in an amount not to exceed the greater of twenty-five dollars (\$25.00) or five percent (5%) of the amount of the installment of the delinquent assessment and shall bear interest from the due date until paid at the maximum rate permitted by law, which is currently eighteen percent (18%) per annum.

**Section 12.6. Personal Obligation of Property Owner.** Every assessment shall be the personal obligation of the Owner of the Lot against which the assessment is levied, ownership being determined as of the date of such levy. If any such assessment is not paid within thirty (30) days after the same is due, then the Association may bring suit against the owner on his personal obligation and there shall be added to the amount of such assessment the aforementioned late charge and interest and all costs incurred by the Association, including but not limited to, reasonable attorneys' fees, paralegal fees, and court costs in preparation for and in bringing such action, as well as those incurred on appeal.

### **ARTICLE XIII** **LIEN RIGHTS OF THE ASSOCIATION**

**Section 13.1. Lien Rights.** In order to provide an additional means to enforce the collection of any annual or special assessment, annual mowing fee or other expense charged to the owner of any Lot, the Association shall have the right

to lien each Lot in the Subdivision, together with all improvements thereon, as forth below.

**Section 13.2. Creation of Lien.** The lien of every such fee, expense and assessment, together with interest and late charges thereon and cost of collection thereof, including but not limited to reasonable attorney's fees and fees of paralegals, as herein provided, shall attach and become a charge on each Lot, and all improvements thereon, only upon the recording of a Claim of Lien by the Association against the Lot in the Public Records of the County as set forth below. No such lien shall be effective until such time as a Claim of Lien is recorded in the Public Records of the County.

**Section 13.3. Enforcement of Lien.** In the event any such fee, expense or assessment is not paid within thirty (30) days after the same is due, the Association shall have the right to file a Claim of Lien in the Public Records of the County. Such lien may be enforced by the Association by foreclosure suit in the same manner as a mortgage foreclosure or in such other manner as may be permitted by law. In the event that the Association files a Claim or Lien against any Lot, it shall be entitled to recover from the Owner of such Lot the interest and late charge and all costs, including, but not limited to reasonable attorney's fees, paralegal fees, and court costs incurred in preparing, filing, and/or foreclosing the Claim of Lien (including attorney's fees, paralegal fees and costs for appellate proceedings), and all such costs, late charges, interest and fees shall be secured by such lien.

**Section 13.4. Priority of Lien.** The lien of every assessment levied against a Lot shall attach, relate back and become a charge on the Lot, and all improvements thereon, upon the recording of the original Declaration. Except as otherwise provided in Section 720.3085, Florida Statutes, an Owner, regardless of how his or her title to property has been acquired, including by purchase at a foreclosure sales or by deed in lieu of foreclosure, is liable for all assessments that come due while he or she is the Owner and is jointly and severally liable with the previous owner for all unpaid assessments that came due up to the time of transfer of title.

#### **ARTICLE XIV** **GENERAL PROVISIONS**

**Section 14.1. Duration and Benefit.** The covenants and restrictions of this Declaration shall run with the title to each of the Lots in the subdivision and shall inure to the benefit of and be enforceable in accordance with its terms by the Association or the Owner of any Lot, and their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date hereof, after which time the provisions of this Declaration shall automatically be extended for successive periods of ten (10) years each unless prior to the commencement of any such ten (10) year period: (1) members of the Association holding at least two thirds (2/3) of the voting rights approve the termination of the provisions of this Declaration, and (2) a written instrument certifying that such approval has been obtained, is signed by the president and secretary of the Association and recorded in the Public Records of Sarasota County, Florida.

**Section 14.2. Remedies for Violation.** The violation or breach of any condition, covenant or restriction herein contained shall give the Association or any Lot Owner, in addition to all other remedies provided herein or by law, the right to

proceed at law or in equity to compel compliance with the terms of such condition, covenant or restriction and to prevent the violation or breach of any of them, and the costs of such proceedings shall be borne by the Lot Owner alleged to be in violation if such proceedings result in a finding that such Owner was in violation of the terms of this Declaration. Such costs shall include reasonable attorney's fees, including attorney's fees for appellate proceedings, paralegal fees, and court costs, incurred by the Association but not attorney's fees incurred by any Lot Owner in bringing an action against another Lot owner. Failure by any party to enforce any of the covenants or restrictions upon breach thereof, however long continued, shall in no event be deemed a waiver of the right to do so thereafter with respect to such breach or with respect to any other breach occurring prior or subsequent thereto.

**Section 14.3. Severability.** Invalidity of any of the covenants and restrictions therein contained by stipulation, agreement, judgment or court order shall in no way affect the other provisions hereof, which other provisions shall remain in full force and effect.

**Section 14.4. Amendment.** This Declaration may be amended at any time and from time to time at a meeting of the Members of the Association at which a quorum is present by a vote or at least two-thirds (2/3) of the voting rights held by those present in person or by proxy; and upon recordation in the Public Records of Sarasota County of an amendatory instrument, certifying that such approval has been obtained executed by the president and secretary of the Association.

**Section 14.5. Amendments: SWFWMD/County Rights.** No amendment to the Declaration, including any amendment to provisions related to the Surfacewater Management System, shall impair, restrict or prove detrimental to the rights of SWFWMD or the County as provided within the Declaration, and as it may be subsequently amended, without the joinder and consent of a respective authorized officer, representative or agent of SWFWMD and/or the County.

**Section 14.6. Usage.** Whenever used herein the singular shall include the plural and the use of any gender shall include all genders.

**Section 14.7. Security; Non-Liability of Association.** The Association shall not be liable if security is not provided. ALL PERSONS USING OR OCCUPYING ANY PORTION OF THE SUBDIVISION ARE RESPONSIBLE FOR THEIR OWN SECURITY AND THE SECURITY OF THEIR OWN PROPERTY. THE ASSOCIATION IS NOT AN INSURER OR GUARANTOR OF SECURITY FOR PERSONS OR PROPERTY WITHIN THE SUBDIVISION AND SHALL NOT BE LIABLE IN ANY WAY FOR LOSS, DAMAGE OR INJURY RESULTING FROM LACK OF SECURITY, OR THE LACK OF EFFECTIVENESS OF ANY SECURITY MEASURES.

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**IN WITNESS WHEREOF**, Red Hawk Reserve Home Owners' Association, Inc. has caused this First Amended and Restated Declaration to be executed as of the \_\_\_\_\_ day of \_\_\_\_\_, 2016, as joined by the parties executing below.

The Association, Red Hawk Reserve Homeowners' Association, Inc., a Florida corporation not for profit, hereby executes and consents to the foregoing First Amended and Restated Declaration of Red Hawk Reserve, and agrees to the provisions thereof. Additionally, the Association certifies that has been approved at a meeting of the Members of the Association at which a quorum was present by a vote of at least two thirds of the voting rights held by those present in person or by proxy.

**RED HAWK RESERVE HOMEOWNERS' ASSOCIATION**, a Florida corporation not for profit

WITNESSES:

\_\_\_\_\_  
Sign Name

\_\_\_\_\_  
By: Tad Cromley, its President

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

\_\_\_\_\_  
Sign Name

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

**STATE OF FLORIDA  
COUNTY OF SARASOTA**

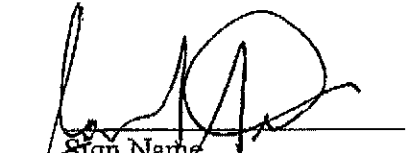
The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as President of **RED HAWK RESERVE HOMEOWNERS' ASSOCIATION, INC.**, a Florida corporation not for profit, on behalf of the corporation, and who are personally known to me or who has produced \_\_\_\_ as identification.


Notary Public  
My Commission Expires:

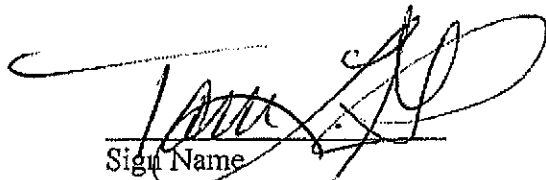


RED HAWK RESERVE HOMEOWNERS' ASSOCIATION, a Florida corporation not for profit

WITNESSES:

  
\_\_\_\_\_  
Sign Name  
Jan S Sirota  
Print Name

  
\_\_\_\_\_  
By: Adam Rouff, its Secretary

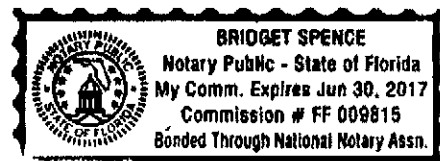
  
\_\_\_\_\_  
Sign Name  
Tamara L. Gilman  
Print Name

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 25 day of July, 2018, by Adam Rouff as Secretary of RED HAWK RESERVE HOMEOWNERS' ASSOCIATION, INC., a Florida corporation not for profit, on behalf of the corporation, and who are personally known to me or who has produced \_\_\_ as identification.



Notary Public  
My Commission Expires:



CONSENT OF MORTGAGEE

The Bank of Commerce, owner and holder of mortgages upon the following described property:

Parcel "A," as shown on the plat of RED HAWK RESERVE, PHASE I, as recorded in Plat Book 44, Pages 41 through 41E, of the Public Records of Sarasota County, Florida;

Which mortgages are recorded in Official Records Instrument # 2006127054, as modified in Official Records Instrument # 200804042, Official Records Instrument # 2010039663, Official Records Instrument # 2010082320 and Official Records Instrument # 2011081047, and in Official Records Instrument # 2011133909, all of the Public Records of Sarasota County, Florida, hereby consents to the foregoing Fifth Amendment, and agrees to the provisions thereof.

IN WITNESS WHEREOF, the undersigned has caused this Consent to be executed in the name of the mortgagee above this 19<sup>th</sup> day of July, 2016.

WITNESSES:

THE BANK OF COMMERCE

[Signature]  
Sign Name  
Sabrina Lomastu  
Print Name

[Signature]  
By: RICHARD J. MOORE  
Its: 2.V.P.

[Signature]  
Sign Name  
John Patterson  
Print Name

STATE OF FLORIDA  
COUNTY OF SARASOTA

BEFORE ME, the undersigned authority, personally appeared Richard J. Moore, as Sc. V.P. of The Bank of Commerce, to me known to be the person described herein or who produced NA as identification and who executed the foregoing and acknowledged before me that he executed the same as the act and deed of the company.

WITNESS my hand and official seal this 19<sup>th</sup> day of July, 2016.

Notary Public  
My Commission Expires:

[Signature]



**JOINDER OF OWNER OF CLUBHOUSE PARCEL**

Foxfire Properties, LLC, a Florida limited liability company, hereby joins in and consents to the foregoing and agrees to the provisions thereof.

IN WITNESS WHEREOF, the undersigned has caused this Consent to be executed in the name of the mortgagee above this 19<sup>th</sup> day of July, 2016.

Signed, sealed and delivered  
In the presence of:

[Signature]  
Printed Name: Virginia T. Pitts

[Signature]  
Printed Name: John Patterson

Foxfire Properties, LLC, a Florida limited liability company

By: Foxfire Development, LLC,  
Florida limited liability company, its Manager

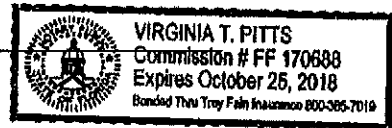
By: [Signature]  
Barry Spencer, Authorized Member

STATE OF FLORIDA  
COUNTY OF Sarasota

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of July, 2016 by Barry Spencer, as Authorized Member of Foxfire Development, LLC, a Florida limited liability company, as Manager of Foxfire Properties, LLC, a Florida limited liability company, on behalf of the companies. He  is personally known to me or  has produced N/A as identification.

My commission expires:

[Signature]  
Notary Public  
Print Name:  
Commission No.



**JOINDER OF OWNER OF GOLF COURSE PARCEL**

Waverley West Land, LLC, a Florida limited liability company, hereby joins in and consents to the foregoing and agrees to the provisions thereof.

IN WITNESS WHEREOF, the undersigned has caused this Consent to be executed in the name of the mortgagee above this 22 day of July 2016.

Signed, sealed and delivered  
in the presence of:

**WAVERLEY WEST LAND LLC**, a Florida  
limited liability company

*Debra Ward*  
Name: DEBRA WARD

By: Land Experts, Inc., a Florida corporation,  
as its Manager

*Kat Anderson*  
Name: KAT ANDERSON

By: *Charles Tokarz*  
Title: Vice President  
Name: Charles Tokarz

Address:  
1651 Whitfield Avenue, Suite 200, Sarasota,  
Florida 34243

STATE OF FLORIDA  
COUNTY OF MANATEE

The foregoing instrument was acknowledged before me this 22 day of July 2016 by Charles Tokarz, as Vice President of Land Experts, Inc., a Florida corporation, as Manager of Waverley West Land LLC, a Florida limited liability company, on behalf of the companies. He is personally known to me or has produced \_\_\_\_\_ as identification.

(NOTARY SEAL)

*Kathleen M Anderson*  
Notary Public Signature

\_\_\_\_\_  
Typed or Printed Notary Name  
Notary Public-State of Florida  
Commission No.: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



**EXHIBIT "A"**

Legal Description of the Property

(RED HAWK RESERVE, PHASE I)

A parcel of land lying in Sections 7, 8, 17 and 18, Township 37 South, Range 19 East, Sarasota County, Florida, described as follows:

Commence at the Southwest corner of said Section 8, Township 37 South, Range 19 East; thence  $S01^{\circ}31'02''W$  along the West line of said Section 17, a distance of 350.30 feet to a point on the North Right of Way line of State Road No. 72 (100' wide), same being the POINT OF BEGINNING; thence  $S89^{\circ}27'15''E$  along said Right of Way line, a distance of 669.24 feet to a point on the southerly extension of the easterly line of the West one half of the Southwest quarter of the Southwest quarter of said Section 8; thence  $N00^{\circ}17'44''E$  along said southerly extension and said easterly line of the West one half of the Southwest quarter of the Southwest quarter of said Section 8, a distance of 1162.21 feet; thence  $N89^{\circ}56'49''E$ , a distance of 960.36 feet; thence  $S34^{\circ}54'02''E$ , a distance of 266.78 feet; thence  $N89^{\circ}56'49''E$ , a distance of 212.93 feet; thence  $N00^{\circ}37'56''E$ , a distance of 661.99 feet to the Northeast corner of the West one half of the Southeast quarter of the Southwest Quarter of said Section 8; thence  $S89^{\circ}56'49''W$ , a distance of 1330.96 feet to the Northwest corner of the East one half of said Southwest Quarter of the Southwest Quarter of Section 8; thence  $S00^{\circ}17'44''W$  a distance of 61.97 feet; thence  $N60^{\circ}32'51''W$ , a distance of 346.97 feet; thence  $S22^{\circ}56'57''W$ , a distance of 68.54 feet; thence  $N61^{\circ}31'10''W$ , a distance of 20.00 feet; thence  $S13^{\circ}08'56''W$ , a distance of 82.79 feet; thence  $N88^{\circ}42'17''W$ , a distance of 299.96 feet to a point on the West line of said Section 8; thence  $N00^{\circ}07'40''E$  along said West line, a distance of 269.02 feet; thence  $N63^{\circ}25'02''W$ , a distance of 195.98 feet to the point of curvature of a curve turning to the left with a radius of 170.59 feet, with a delta angle of  $42^{\circ}35'50''$ , with a chord bearing of  $N84^{\circ}42'57''W$ , with a chord length of 123.93 feet; thence along the arc of said curve having an arc length of 126.83 feet to the point of tangency; thence  $S73^{\circ}59'08''W$ , a distance of 561.94 feet to a point on the East line of Ashley Subdivision, recorded in Plat Book 33, Page 22, Public Records of Sarasota County, Florida; thence  $S00^{\circ}06'30''W$  along said West line, a distance of 26.90 feet; thence  $S12^{\circ}07'21''E$ , a distance of 24.21 feet; thence  $S60^{\circ}07'41''W$ , a distance of 147.61 feet; thence  $S00^{\circ}00'00''E$ , a distance of 106.02 feet; thence  $N81^{\circ}40'45''E$ , a distance of 118.81 feet; thence  $S30^{\circ}16'18''E$ , a distance of 55.50 feet to a point on a curve turning to the right having a radius of 600.00 feet, with a delta angle of  $21^{\circ}19'16''$ , with a chord bearing of  $S86^{\circ}22'56''E$ , with a chord length of 221.99 feet; thence along the arc of said curve an arc length of 223.27 feet to the point of compound curvature of a curve turning to the right having a radius of 800.00 feet, with a delta angle of  $19^{\circ}45'48''$ , with a chord bearing of  $S65^{\circ}50'24''E$ , with a chord length of 274.58 feet; thence along the arc of said curve an arc length of 275.95 feet to the point of reverse curvature of a curve turning to the left with a radius of 275.00 feet, with a delta angle of  $47^{\circ}41'10''$ , with a chord bearing of  $S79^{\circ}48'05''E$ , with a chord length of 222.33 feet; thence along the arc of said curve an arc length of 228.88 feet to the point

of tangency; thence N76°21'20"E, a distance of 88.64 feet; thence S13°40'21"E, a distance of 99.99 feet to the point of curvature of a curve turning to the right with a radius of 25.00 feet, with a delta angle of 63°57'45", with a chord bearing of S18°18'31"W, with a chord length of 26.48 feet; thence along the arc of said curve an arc length of 27.91 feet to the end of said curve; thence S13°43'36"E, a distance of 55.10 feet to a point on a curve turning to the right with a radius of 25.00 feet, with a delta angle of 63°49'47", with a chord bearing of S45°35'15"E, with a chord length of 26.43 feet; thence along the arc of said curve an arc length of 27.85 feet to the point of tangency; thence S13°40'21"E, a distance of 33.11 feet to the point of curvature of a curve turning to the right with a radius of 375.00 feet, with a delta angle of 11°07'24", with a chord bearing of S08°06'39"E, with a chord length of 72.69 feet; thence along the arc of said curve an arc length of 72.80 feet to the point of tangency, thence S02°32'57"E, a distance of 305.80 feet to the point of curvature of a curve turning to the right with a radius of 750.00 feet, with a delta angle of 4°47'03", with a chord bearing of S00°09'25"E, with a chord length of 62.61 feet; thence along the arc of said curve an arc length of 62.63 feet to the point of compound curvature of a curve turning to the right with a radius of 25.00 feet, with a delta angle of 88°47'17", with a chord bearing of S46°37'45"W, with a chord length of 34.98 feet; thence along the arc of said curve an arc length of 38.74 feet to the point of reverse curvature of a curve turning to the left with a radius of 475.00 feet, with a delta angle of 1°18'06", with a chord bearing of N89°37'39"W, with a chord length of 10.79 feet; thence along the arc of said curve an arc length of 10.79 feet to the end of said curve; thence S00°16'42"E, a distance of 50.00 feet to a point on a curve turning to the right with a radius of 25.00 feet, with a delta angle of 100°27'48", with a chord bearing of S40°02'48"E, with a chord length of 38.43 feet; thence along the arc of said curve an arc length of 43.84 feet to the point of compound curvature of a curve turning to the right with a radius of 750.00 feet, with a delta angle of 12°01'06", with a chord bearing of S16°11'39"W, with a chord length of 157.03 feet; thence along the arc of said curve an arc length of 157.32 feet to the point of reverse curvature of a curve turning to the left with a radius of 600.00 feet, with a delta angle of 3°19'10", with a chord bearing of S20°32'37"W, with a chord length of 34.76 feet; thence along the arc of said curve an arc length of 34.76 feet to the point of reverse curvature of a curve turning to the right with a radius of 475.00 feet, with a delta angle of 18°19'25", with a chord bearing of S28°02'44"W, with a chord length of 151.26 feet; thence along the arc of said curve an arc length of 151.91 feet to the point of reverse curvature of a curve turning to the left with a radius of 425.00 feet, with a delta angle of 3°22'52", with a chord bearing of S35°31'01"W, with a chord length of 25.08 feet; thence along the arc of said curve an arc length of 25.08 feet to the point of reverse curvature of a curve turning to the right with a radius of 25.00 feet, with a delta angle of 79°42'37", with a chord bearing of S73°40'53"W, with a chord length of 32.04 feet; thence along the arc of said curve an arc length of 34.78 feet to the point of reverse curvature of a curve turning to the left with a radius of 225.00 feet, with a delta angle of 5°22'13", with a chord bearing of N69°08'55"W, with a chord length of 21.08 feet; thence along the arc of said curve an arc length of 21.09 feet to the end of said curve; thence S18°09'59"W, a distance of 53.34 feet to a point on a curve turning to the right with a radius of 25.00 feet, with a delta angle of 64°52'44", with a chord bearing of S11°34'13"E, with a chord length of 26.82 feet; thence along the arc of said curve an arc length of 28.31 feet to the point of reverse curvature of a curve turning to the left with a radius of 443.88 feet, with a delta

angle of  $20^{\circ}19'37''$ , with a chord bearing of  $S10^{\circ}42'20''W$ , with a chord length of 156.65 feet; thence along the arc of said curve an arc length of 157.48 feet to the point of tangency; thence  $S00^{\circ}32'32''W$ , a distance of 46.07 feet to the aforementioned North Right of Way line of State Road No. 72; thence  $S89^{\circ}27'15''E$ , a distance of 191.62 feet to the Point of Beginning.

**NO300008524**

Florida Department of State  
Division of Corporations  
Public Access System

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Account Number : 120000800195  
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*SXK*

**FLORIDA NON-PROFIT CORPORATION**

**RED HAWK RESERVE HOMEOWNERS ASSOCIATION, INC**

Certificate of Status	0
Certified Copy	1
Page Count	06
Estimated Charge	\$78.75

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DEPARTMENT OF STATE

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CLERK OF STATE  
TALLAHASSEE FLORIDA

**ARTICLES OF INCORPORATION OF  
RED HAWK RESERVE  
HOMEOWNERS ASSOCIATION, INC.  
A FLORIDA CORPORATION NOT FOR PROFIT**

We, the undersigned, hereby associate ourselves together for the purpose of becoming a corporation not for profit under the laws of the State of Florida, by and under the provisions of the statutes of the State of Florida, providing for the formation, liability, rights, privileges and immunities of a corporation not for profit.

**ARTICLE I  
NAME OF CORPORATION**

The name of this corporation shall be RED HAWK RESERVE HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the Association, whose address is 2033 Main St., Ste. 600, Sarasota, FL 34237.

**ARTICLE II  
GENERAL NATURE OF BUSINESS**

The general nature of the business to be conducted by the Association shall be the operation and management of the affairs and property of the subdivision known as Red Hawk Reserve, located in the County of Sarasota, Florida, and to perform all acts provided in the Declaration of Covenants and Restrictions for Red Hawk Reserve.

**ARTICLE III  
PURPOSE AND POWERS**

The purpose for which the Association is organized is to provide an entity pursuant to the Florida Statutes for the operation of the Red Hawk Reserve subdivision, located in Sarasota County, Florida. The Association is organized and shall exist upon a non-stock basis as a Florida corporation not for profit. No portion of any earnings of the Association shall be distributed or inure to the private benefit of any member, director, or officer. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit except as limited or modified by these Articles, the Declaration of Covenants and Restrictions or Chapter 720, Florida Statutes, as they may hereafter be amended, including, but not limited to, the following:

- A. To make and collect assessments against members of the Association to defray the costs, expenses, and losses of the Association, and to use the proceeds of assessments in the exercise of its powers and duties.
- B. To protect, maintain, repair, replace, and operate the common areas and common elements of the Red Hawk Reserve subdivision.
- C. To purchase insurance upon the Association property and Association property for the protection of the Association and its members.
- D. To reconstruct improvements after casualty and to make further improvements of the property.
- E. To make, amend, and enforce reasonable rules and regulations governing the use of the common elements, and the operation of the Association.
- F. To enforce the provision of the Declaration of Covenants and Restrictions, these Articles, the Bylaws, and any Rules and Regulations of the Association.

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G. To contract for the management and maintenance of the Association and the association property to delegate any powers and duties of the Association in connection therewith except such as are specifically required by the Declaration to be exercised by the Board of Directors or the membership of the Association.

H. To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Association.

I. To borrow money without limit as to amount if necessary to perform its other functions hereunder.

All funds and the title to all property acquired by the Association shall be held for the benefit of the members in accordance with the provisions of the Declaration, these Articles of Incorporation, and the Bylaws.

**ARTICLE IV  
MEMBERS**

All persons owning a vested present interest in the fee title to any of the Lots of the Red Hawk Reserve subdivision, shall be members. Membership shall terminate automatically and immediately as a member's vested interest in the fee title terminates.

Prior to the recording of said Declaration of Restrictions for the Red Hawk Reserve Subdivision in the public records of said county, the subscribers hereto shall remain the members of the Association and shall each be entitled to one vote.

**ARTICLE V  
VOTING INTERESTS**

The record owner(s) of each Lot shall be entitled to one vote per Lot owned at Association meetings. In the event of a joint ownership of a Lot, the vote to which that Lot is entitled shall be executed in the manner provided for in the Bylaws.

**ARTICLE VI  
INCOME DISTRIBUTION**

No part of the income of this corporation shall be distributed to its members, except as compensation for services rendered.

**ARTICLE VII  
EXISTENCE**

This corporation shall exist perpetually unless dissolved according to law.

**ARTICLE VIII  
REGISTERED OFFICE AND REGISTERED AGENT**

The registered office of the corporation shall be c/o 2033 Main St., Ste. 600, Sarasota, FL 34237 and the registered agent at such address shall be Andrew K. Fritsch, Esq.

**ARTICLE IX  
NUMBER OF DIRECTORS**

The business of the corporation shall be conducted by a Board of Directors which shall consist of not less than three (3) nor more than five (5) persons, as shall be designated by the Bylaws.

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**ARTICLE X**  
**FIRST BOARD OF DIRECTORS AND OFFICERS**

The names and post office addresses of the members of the first Board of Directors and officers, all of whom shall hold office until their successors are duly elected and qualified, are as follows:

Name	Office	Address
Gary Ahooy	President, Secretary & Director	6001 Medical Court, Sarasota, Florida 34243
Jerry Andrews	Vice President, Secretary & Director	280 Coconut Ave., Sarasota, Florida 34238
Skip Ferris	Treasurer & Director	6001 Medical Court, Sarasota, Florida 34243

**ARTICLE XI**  
**INDEMNIFICATION OF OFFICERS AND DIRECTORS**

All officers and Directors shall be indemnified by the Association against all expenses and liabilities, including counsel fees (including appellate proceedings) reasonably incurred in connection with any proceeding or settlement thereof in which they may become involved by reason of holding such office. In no event, however, shall any officer or Director be indemnified for his own willful misconduct. The Association may purchase and maintain insurance on behalf of all officers and Directors against any liability asserted against them or incurred by them in their capacity as officers and Directors or arising out of their status as such.

**ARTICLE XII**  
**RIGHTS OF DEVELOPER**

Members other than the Developer are entitled to elect at least a majority of the members of the Board of Directors of the Association when the earlier of the following events occurs:

(1) Three months after 90 percent of the Lots in all Phases of the Subdivision that have been created have been conveyed to Members other than the Developer;

or

(2) Such other date upon which the Developer elects, in its sole discretion, to turnover control of the Association to the Members other than the Developer.

At the time of turnover, the Association shall be obligated to accept turnover of the control of the control of the Association and the duties and obligations imposed hereunder. The date of turnover shall be referred to herein as the "Turnover Date." For purposes of this section, the term "Members other than the Developer" shall not include builders, contractors, or others who purchase a parcel for the purpose of constructing improvements thereon for resale.

The Developer is entitled to elect at least one member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business at least 5 percent of the Lots in the subdivision. After the Developer relinquishes control of the Association to the Members other than the Developer, the Developer may exercise the right to vote any Developer-owned Voting interests in the same manner as any other Member, except for purposes of reacquiring control of the Association or selecting the majority of the members of the Board of Directors.

At the time the Members other than the Developer are entitled to elect at least a majority of the Board of Directors of the Association, the Developer shall, at the Developer's expense, within no more than 90 days deliver the following documents to the board:

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- (1) All deeds to common property owned by the Association, if any.
- (2) The original of the Declaration.
- (3) A certified copy of the Articles of Incorporation of the Association.
- (4) A copy of the Bylaws.
- (5) The minute books, including all minutes.
- (6) The books and records of the Association.
- (7) Policies, rules, and regulations, if any, which have been adopted.
- (8) Resignations of directors who are required to resign because the Developer is required to relinquish control of the association.
- (9) The financial records of the Association from the date of incorporation through the date of turnover.
- (10) All Association funds and control thereof.
- (11) All tangible property of the Association, if any.
- (12) A copy of all contracts which may be in force with the Association as one of the parties.
- (13) A list of the names and addresses and telephone numbers of all contractors, subcontractors, or others in the current employ of the Association.
- (14) Any and all insurance policies in effect.
- (15) Any permits issued to the Association by governmental entities, or assigned to the Association by Developer.
- (16) Any and all warranties in effect.
- (17) A roster of current Owners and their addresses and telephone numbers and section and lot numbers.
- (18) Any employment and service contracts in effect.
- (19) All other contracts in effect to which the association is a party, if any.

**ARTICLE XIII  
BYLAWS**

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

**ARTICLE XIV  
SUBSCRIBERS**

The names and street addresses of the subscriber to these Articles of Incorporation are as follows: Andrew K. Fritsch, 2093 Main St., Ste. 600, Sarasota, FL 34237.

**ARTICLE XV  
AMENDMENTS**

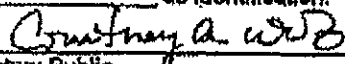
The corporation reserves the right to amend, alter, change or repeal any provisions contained in these Articles of Incorporation by a simple majority vote of all voting rights of all members of the corporation and all rights conferred upon the members herein are granted subject to this reservation.

IN WITNESS WHEREOF, we, the undersigned subscriber to these Articles of Incorporation, have hereunto set our hands and seals this 1<sup>st</sup> day of October, 2003.

  
Andrew K. Fritsch

STATE OF FLORIDA  
COUNTY OF SARASOTA

Sworn to and subscribed before me October 1, 2003, by Andrew K. Fritsch who is personally known to me or who has produced \_\_\_\_\_ as identification.

  
Notary Public  
My Commission Expires:

NOTARY PUBLIC  
FLORIDA  
COMMISSION # 00000000  
COURTNEY A. WEBB



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**ACCEPTANCE BY REGISTERED AGENT**

The undersigned hereby accepts the designation as registered agent of the foregoing corporation.

*at [Signature]*

STATE OF FLORIDA  
COUNTY OF SARASOTA

Sworn to and subscribed before me October 1, 2003, by Andrew K. Fritch, who is personally known to me or who has produced \_\_\_\_\_ as identification.

*Courtney A. Will*  
Notary Public  
My Commission Expires:

Courtney A. Will  
MY COMMISSION # 0007444 EXPIRES  
February 24, 2006  
BONDED THROUGH FARMERS GROUP, INC.



Courtney A. Will  
MY COMMISSION # 0007444 EXPIRES  
February 24, 2006  
BONDED THROUGH FARMERS GROUP, INC.

**FILED**  
2003 OCT -1 AM 9:34  
CLERK OF STATE  
FALLAHASSEE FLORIDA



**BYLAWS  
OF  
RED HAWK RESERVE HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I  
IDENTITY**

These are the Bylaws of THE RED HAWK RESERVE HOMEOWNERS ASSOCIATION, INC. (the "Association"), a corporation not for profit under the laws of the State of Florida, organized for the purpose of operating and managing the property known as THE RED HAWK RESERVE subdivision located in Sarasota County, Florida.

**1.1 Principal Office.**

The principal office of the Association shall be at 2033 Main St., Ste. 600, Sarasota, Florida 34237, or at such other place as may be designated by the Board of Directors.

**1.2 Fiscal Year.**

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

**1.3 Seal.**

The seal of the Association shall bear the name of the Corporation; the word "Florida," the words, "corporation not for profit," and the year of incorporation.

**1.4 Definitions.**

For convenience, these Bylaws shall be referred to as the "Bylaws;" the Articles of Incorporation of the Association as the "Articles;" and the Declaration of Covenants and Restrictions for THE RED HAWK RESERVE subdivision as the "Declaration." The other terms used in these Bylaws shall have the same definitions and meaning as those set forth in Florida Statutes Chapter 720, (the "Act"), as well as those set forth in the Declaration and the Articles, unless provided to the contrary in these Bylaws, or unless the context otherwise requires.

**1.5 Official Records and Minutes.**

The Association shall maintain each of the items, which is applicable, identified within Chapter 720, Florida Statutes, to constitute the Official Records of the Association. Minutes of all meetings of the members and all meetings of the Board of Directors shall be kept in a book and such Official Records and minutes shall be available for inspection by Owners and board members and their authorized representatives at all reasonable times. The right to inspect shall include the right to make or obtain copies, at the reasonable expense, if any, of the Owner. The Association may adopt reasonable rules in writing regarding the frequency, time, location, notice, and manner of record inspections and copying. The Association shall maintain an adequate number of copies of the Declaration, Articles of Incorporation, these Bylaws, and Association Rules, and all amendments to each of the foregoing to ensure the availability to Owners and prospective purchasers and may

charge its actual costs for preparing and furnishing these documents to those requesting them. All minutes shall be retained for a period of not less than seven (7) years.

## ARTICLE II MEETINGS OF MEMBERS AND VOTING

### 2.1 Annual Meeting.

The annual meeting of the members shall be held on the date and at the place and time as determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and no later than 13 months after the last annual meeting. The purpose of the meeting shall be to elect directors and to transact any other business authorized to be transacted by the members.

### 2.2 Special Meetings.

Except as provided in 2.5 and 2.6 of this Article, special meetings of the members shall be held at such places as provided for annual meetings and may be called by the President or by a majority of the Board of Directors of the Association, and must be called by the President or Secretary on receipt of a written request from at least 30% of the members of the Association entitled to vote at the meeting. Requests for a meeting by the members shall state the purpose for the meeting and business conducted at any special meeting shall be limited to the matters stated in the notice for it.

### 2.3 Notice of All Members' Meetings.

Notice of all members' meetings stating the time and place and including the agenda for which the meeting is called shall be given by the President or Vice President or Secretary unless waived in writing. Such notice shall be in writing and sent to each member at his address as it appears on the books of the Association or posted in conformance with the requirements of Chapter 720, Florida Statutes. The notice of all members' meetings shall be mailed, delivered, or posted not less than fourteen (14) continuous days prior to the date of the meeting. Upon notice to the members, the Board shall by duly adopted rule, designate a specific location on the common property upon which all notices of Owner meetings shall be posted. Where a Lot is owned by more than one person, the Association shall provide notice, for meetings and all other purposes, to that one address which the Developer initially identified for that purpose and thereafter as one or more of the owners of the Lot shall so advise the Association in writing, or if no address is given or the owners of the Lot do not agree on an address, to the address provided on the deed of record for the Lot.

### 2.4 Notice of Budget Meeting.

The Board of Directors shall mail a notice and a copy of the proposed annual budget to the Owners not less than 14 days before the meeting at which the Board will consider the budget.

### 2.5 Notice of Meeting to Consider Excessive Budget.

If a budget adopted by the Board of Directors requires assessment against the Owners for any

calendar year exceeding 115% of the assessment for the preceding year, the Board, on written application of 10% of the Owners to the Board, shall call a special meeting of the Owners giving notice of the meeting as required for a meeting of Owners, stating the purpose of the meeting.

2.6 Notice of Meeting to Consider Recall of Board Members.

A special meeting of the Owners to recall a member or members of the Board of Directors may be called by 10% of the Owners giving notice of the meeting as required for a meeting of Owners, stating the purpose of the meeting.

2.7 Notice of Meeting to Elect Non-developer Directors.

Notice of a meeting to elect a director or directors from Owners other than the developer shall be given not less than 30 days nor more than 40 days before the meeting. The meeting may be called and notice given by any Owner if the Association fails to do so.

2.8 Quorum.

Unless a lower number or no requirement of quorum is provided within these Bylaws, a quorum at meetings of members shall consist of persons entitled to cast, either in person or by proxy, at least thirty percent (30%) of the votes of the entire membership. Absentee ballots alone may not be counted in determining a quorum.

2.9 Voting.

(a) Number of Votes.

In any meeting of members, the owners of Lots shall be entitled to cast one vote for each Lot Owned. The vote of a Lot is not divisible.

(b) Majority Vote.

The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum is present shall be binding on all Owners for all purposes unless the Act, the Declaration, the Articles, or these Bylaws require a larger or lesser percentage of vote, in which case that larger or lesser percentage shall control.

2.10 Membership-designation of Voting Member.

Persons or entities shall become members of the Association on the acquisition of fee title to a Lot in the subdivision after approval of the acquisition in the manner provided in the Declaration. Membership shall be terminated when a person or entity no longer owns a Lot in the subdivision. If a Lot is owned by more than one natural person, any record owner of the Lot may vote in person or by proxy, provided that there shall be no more than one vote per Lot. In the case of conflict among the owners of the Lot, the vote for that Lot shall not be counted as to the matter under consideration in which the conflict arose, and whether the conflict appears by vote in person or by proxy. Ballots may be cast for Lots owned by corporations or partnerships by a president, vice



president, a partner, or any other person designated in a written certificate filed with the Secretary of the Association and signed by a president or vice president of a corporation or a partner of a partnership.

#### 2.11 Proxies; Powers of Attorney.

Owners may vote by general proxy, or by limited proxies. Limited proxies and general proxies may be used to establish a quorum. No proxy, limited or general, shall be used in the election of members to the Board. Notwithstanding the provisions hereof, Owners may vote in person at Owner meetings. Each proxy shall set forth specifically the name of the person voting by proxy and the name of the person authorized to vote the proxy for him. Each proxy shall contain the date, time and place of the meeting for which the proxy is given. If the proxy is a limited proxy, it shall set forth those items that the holder of the proxy may vote and the manner in which the vote is to be cast. The proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings. No proxy shall be valid for a period longer than 90 days after the date of the first meeting for which it was given, and it may be revoked at any time at the pleasure of the Owner executing it. The proxy shall be signed by the Owner or owners (if more than one) or by the appropriate officer or partner of a corporation or partnership or other designated person, or the duly authorized attorney-in-fact of that person or persons (provided the power of attorney is filed with the Secretary of the Association). The proxy shall be filed with the Secretary before or at the meeting for which the proxy is given. One holding a power of attorney from a Owner, properly executed and granting such authority, may vote the interest of that Lot.

#### 2.12 Adjourned Meetings.

If any meeting of members cannot be organized because a quorum is not present, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present. The time and place to which the meeting is adjourned shall be announced at the meeting at which the adjournment is taken and a notice shall be posted in a conspicuous place on the common property as soon thereafter as may be practical stating the time and place to which the meeting is adjourned.

#### 2.13 Waiver of Notice.

Owners may waive their right to receive notice of any meeting, whether annual or special, by a writing signed by them to that effect. The waiver shall be filed with the Secretary of the Association either before, at, or after the meeting for which the waiver is given.

#### 2.14 Action by Members Without a Meeting.

Unless otherwise prohibited by law, Owners may take action by written agreement without a meeting, as long as written notice is given to the Owners in the manner prescribed elsewhere in these Bylaws appropriate to the subject matter to be agreed on, unless that notice is waived as provided in these Bylaws. The decision of a majority of the Owners, or a larger percentage vote as otherwise may be required by the Act, the Declaration, the Articles or these Bylaws (the decision to be evidenced by written response to be solicited in the notice), shall be binding on the membership, provided a quorum submits a response. The notice shall set forth a time period within which

responses must be made by the members.

2.15 Minutes of Meetings.

The minutes of all meetings of Owners shall be kept in a book available for inspection by Owners or their authorized representatives, and Board members at any reasonable time. The minutes shall be retained by the Association for a period of not less than seven years. Owners and their authorized representatives shall have the right to make handwritten notations from the minutes.

2.16 Order of Business.

The order of business at annual meetings of members and as far as practical at other members' meetings, shall be

- (a) Call to order;
- (b) Election of a chairman of the meeting, unless the President or Vice President is present, in which case either the President or Vice President shall preside;
- (c) Calling of the roll, certifying of proxies, determination of a quorum;
- (d) Proof of notice of the meeting or waiver of notice;
- (e) Reading and disposal of any unapproved minutes;
- (f) Reports of officers;
- (g) Reports of committees;
- (h) Appointment of inspectors of election;
- (i) Determination of number of directors;
- (j) Election of directors;
- (k) Unfinished business;
- (l) New business;
- (m) Adjournment

2.17 Actions Specifically Requiring Owner Votes.

The following actions require approval by the Owners and may not be taken by the Board of Directors acting alone:

- (a) Amendments to the Declaration, except those made by the Developer and recording a certificate of surveyor.
- (b) Purchase of land or recreation lease.
- (c) Cancellation of certain grants or reservations made by the Declaration, a lease or other document and any contract made by the Association before the transfer of control of the Association from the Developer to Owners other than the Developer.
- (d) Exercise of option to purchase recreational or other commonly used facilities lease.
- (e) Providing no reserves, or less than adequate reserves.

(f) Recall of members of Board of Directors.

(g) Other matters contained in the Declaration, the Articles or these Bylaws that specifically require a vote of the members.

2.18 Proof of Mailing. Any officer of the Association shall provide an affidavit, to be included in the official records of the Association, affirming that notices of the Association meeting were mailed or hand delivered in accordance with this provision, to each Owner at the address last furnished to the Association.

2.19 Owner Meeting Participation. Owners shall have the right to participate in meetings of Owners with reference to all designated agenda items. The Association may adopt reasonable rules in writing governing the frequency, duration, and manner of Owner participation.

2.20 Tape Recording or Video Taping of Meetings. Any Owner may tape record or video tape a meeting of the Owners subject to such reasonable rules adopted by the Board.

### ARTICLE III DIRECTORS

#### 3.1 Number and Qualifications.

The affairs of the Association shall be managed initially by a Board of three directors selected by the Developer. When Owners other than the Developer are entitled to elect a majority of the directors, the Board shall be composed of any odd number of directors that the Owners may decide. The number of directors, however, shall never be less than three or more than seven. Other than those selected by the Developer, directors must be either Owners; tenants residing in Lots; officers of a corporate Owner; or partners of a partnership Owner. No director (except those selected by the Developer) shall continue to serve on the Board after he ceases to be an Owner or tenant residing in a Lot.

#### 3.2 Election of Directors.

The members of the Board shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the Board, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in Florida Statutes Chapter 720. Not less than sixty (60) days before a scheduled election, the Association shall mail or deliver, whether by separate Association mailing or included in another Association mailing or delivery including regularly published newsletters, to each Owner entitled to vote, a First Notice of the date of the election. Any Owner or other eligible person may nominate himself or may nominate another Owner or eligible person, if he has permission in writing to nominate the other person. Any Owner or other eligible person desiring to be a candidate for the Board must give written notice to the Association not less than forty (40) days before a scheduled election. Not less than thirty (30) days before the election, the Association shall mail or deliver a Second Notice of the election to all Owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request

of a candidate, the Association shall include an information sheet, no larger than 8 ½ x 11 inches, which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing of the ballot, with the costs of mailing and copying to be borne by the Association. Notwithstanding the foregoing, the members may consider any additional nominations made from the floor at the meeting during which the election is to be held. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the Board. No Owner shall permit any other person to vote his ballot, and any such ballots improperly cast shall be deemed invalid. A Owner who needs assistance in casting the ballot for the reason stated in §201.051, F.S., may obtain assistance in casting the ballot. The regular election shall occur on the date of the annual meeting. Notwithstanding the provisions hereof, an election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the Board.

### 3.3 Term.

Each director's term of service shall extend until the next annual meeting of the members and thereafter until his successor is duly elected and qualified or until he is removed in the manner provided in 3.5. The members, however, at any annual meeting after the Developer has relinquished control of the Association and in order to provide a continuity of experience, may vote to create classes of directorships having a term of one, two or three years so that a system of staggered terms will be initiated.

### 3.4 Vacancies.

Subject to the provisions of applicable statutes regarding the entitlement to representation on the Board by Developer and/or Owners, only the Developer may vote, in person or by proxy, to fill a vacancy on the Board previously occupied by a Board member elected or appointed by that Developer, in which case a quorum for purposes of that vote shall consist of a majority of Lots owned by the Developer. Only Owners other than Developer may vote, in person or proxy, to fill a vacancy on the Board previously occupied by a Board member elected or appointed by Owners other than Developer, in which case a quorum for purposes of that vote shall consist of a majority of Owners other than Developer. Any director elected to fill a vacancy shall hold office only until the next election of directors by the members, irrespective of the length of the remaining term of the vacating director.

### 3.5 Removal.

Any director, except those selected by the Developer, may be recalled and removed from office with or without cause by the vote or agreement in writing of a majority of all voting interests. A special meeting of the Owners to recall a member or members of the Board of Directors may be called by 10% of the voting interests giving notice of the meeting as required in these Bylaws. The notice shall state the purpose of the meeting. Any vacancy on the Board of Directors thus created shall be filled as provided in this Section.

If the recall is approved by a majority of all voting interests by a vote at a meeting, the recall will be effective as provided below. The Board shall duly notice and hold a Board meeting within

five (5) full business days of the adjournment of the Owner meeting to recall one or more Board members. At the meeting the Board shall either certify the recall, in which case, such member or members shall be recalled, effective immediately, and shall turn over to the Board within five (5) full business days any and all records of the Board and the property of the Association in their possession, or, shall proceed as set forth in Subsection C. below.

If the Board fails to duly notice and hold a Board meeting within five (5) full business days of service of adjournment of the Owner recall meeting, the recall shall be deemed effective and the Board members so recalled shall immediately turn over to the Board any and all records of the Board and the property of the Association.

If a vacancy occurs on the Board as a result of a recall and less than the majority of the Board members are removed, the vacancy may be filled by affirmative vote of the majority of the remaining Directors, notwithstanding any provision to the contrary contained in this section. If vacancies occur on the Board as a result of a recall and a majority or more of the Board members have been removed, the vacancies shall be filled by the Owners in accordance with these Bylaws.

### 3.6 Disqualification and Resignation.

Any director may resign at any time by sending or personally delivering a written notice of resignation to the Association, addressed to the Secretary. The resignation shall take effect on receipt by the Secretary, unless it states differently.

### 3.7 Organizational Meeting.

The organizational meeting of a newly elected Board of Directors shall be held within ten days of their election at a place and time that shall be fixed by the directors at the meeting at which they were elected and without further notice.

### 3.8 Regular Meetings.

The Board of Directors may establish a schedule of regular meetings to be held at a time and place as a majority of them shall determine from time to time. Notice of regular meetings, however, shall be given to each director personally or by mail, telephone or telegraph, at least three days before the day named for the meeting.

### 3.9 Special Meetings.

Special meetings of the Board of Directors may be called by the President and, in his absence, by the Vice President, and must be called by the Secretary at the written request of one third of the directors. Notice of the meeting shall be given personally or by mail, telephone or telegraph. The notice shall state the time, place and purpose of the meeting and shall be transmitted not less than three days before the meeting.

### 3.10 Waiver of Notice.

Any director may waive notice of a meeting before, at or after the meeting and that waiver

shall be deemed equivalent to the giving of notice. Attendance by any director at a meeting shall constitute a waiver of notice of the meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

3.11 Notice to Owners.

Notices of all meetings of the Board of Directors specifically identifying all agenda items shall be titled "To The Attention of All Owners" and shall also be posted conspicuously on the common property at least forty-eight (48) continuous hours preceding the meeting, except in an emergency. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the Board. Such emergency action shall be noticed and ratified at the next regular meeting of the Board. Notice of any meeting in which regular assessments against Lots or Owners are to be considered for any reason shall contain a statement that assessments will be considered and the nature of any such assessments. Written notice of any meeting at which non-emergency special assessment, or at which amendment to rules regarding Lot use will be proposed, discussed, or approved, shall be mailed or delivered to the Owners and posted conspicuously on the Association property not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen (14) day notice shall be made by an affidavit executed by the Secretary and filed among the Official Records of the Association. Upon notice to the Owners, the Board shall by duly adopted rule designate a specific location on the common property upon which all notices of Board meetings shall be posted.

3.12 Quorum.

A quorum at the meetings of the directors shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of directors is required by the Act, the Declaration, the Articles or these Bylaws. A Director who is present at a meeting of the Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless such Director votes against such action or abstains from voting in respect thereto because of an asserted conflict of interest. No Director may vote by proxy or by secret ballot at a Board meeting except for the election of officers. A vote or abstention for each member present shall be recorded in the minutes of that meeting.

3.13 Adjourned Meetings.

If there is less than a quorum present at any meeting of the Board of Directors, the majority of those present may adjourn the meeting until a quorum is present. The adjourned meeting shall be held after proper notice given in accordance with these Bylaws.

3.14 No Proxy.

There shall be no voting by proxy or secret ballot at any meeting of the Board of Directors, except that officers may be elected by secret ballot.

3.15 Joinder in Meeting by Approval of Minutes.

A director may join in the action of a meeting by signing and concurring in the minutes of that meeting. That concurrence, however, shall not constitute the presence of that director for the purpose of determining a quorum.

### 3.16 Meetings Open to Members.

Meetings of the Board of Directors and any committee thereof at which a quorum of the members of that committee are present shall be open to all Owners. When a telephone conference is used, a telephone speaker shall be attached so that the discussion may be heard by the Board members and by any Owners present in an open meeting. Board members utilizing a telephone conference call may be counted toward obtaining a quorum and may vote over the telephone. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items; however, the Board may permit a Owner to speak on items not specifically designated on the agenda and may adopt reasonable rules governing the frequency, duration, and manner of Owner statements.

### 3.17 Presiding Officers.

The presiding officer at Board meetings shall be the President or, in his absence, the Vice President, and in his absence, the directors present shall designate any one of their number to preside.

### 3.18 Minutes of Meetings.

The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Owners or their authorized representative and Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven years. Owners and their authorized representatives shall have the right to make written notations from the minutes.

### 3.19 Committees.

The Board of Directors, by resolution adopted by a majority of the full Board, may appoint an Executive Committee and one or more other committees comprised either of Board members, Owners, or Board members and Owners appointed by the Board, whose exercise of power shall be subject to the prior and subsequent approval of the Board of Directors. The Executive Committee shall have and may exercise all of the powers of the Board in the management of the business and affairs of the Association during the intervals between the meetings of the Board insofar as may be permitted by law. The Executive Committee, however, shall not have power to: (a) determine the common expenses required for the operation of the Association; (b) determine the assessments payable by the Owners to meet the common expenses of the Association; (c) adopt or amend rules and regulations covering the details of the operation and use of the Association property; (d) purchase, lease or otherwise acquire Lots in the subdivision in the name of the Association; (e) approve or recommend to Owners any actions or proposals required by the Act, the Declaration, the Articles or these Bylaws to be approved by Owners; or (f) fill vacancies on the Board of Directors.

### 3.20 Compensation.

Directors shall serve without pay but shall be entitled to reimbursement for expenses

reasonably incurred in the discharge of their duties. No Director shall solicit, offer to accept, or accept anything or service of value for which consideration has not been provided for his own benefit or that of his immediate family, from any person providing or proposing to provide goods or services to the Association. However, this paragraph does not prohibit a Director from accepting services or items received in connection with trade fairs or education programs.

3.21 Order of Business.

The order of business at meetings of directors shall be:

- (a) Calling of roll;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading and disposal of any unapproved minutes;
- (d) Reports of officers and committees;
- (e) Election of officers;
- (f) Unfinished business;
- (g) New business;
- (h) Adjournment

3.22 Election of Directors by Owners Other than the Developer.

(a) The Owners other than the Developer shall be entitled to elect members of the Board of Directors as is set forth in the Articles of Incorporation.

(b) Election.

Within 75 days after the Owners other than the Developer are entitled to elect a member or members of the Board of Directors, the Association shall call and give not less than 60 days' notice of an election for the members of the Board of Directors. The notice may be given by any Owner if the Association fails to do so.

(c) Relinquishment of Control.

Either before or not more than 60 days after the time that Owners other than the Developer elect a majority of the members of the Board of Directors, the Developer shall relinquish control of the Association and the Owners shall accept control. Simultaneously, the Developer shall deliver to the Association all property of the Owners and of the Association held or controlled by the Developer, including but not limited to those items specified in the Act.

(d) Early Transfer.



Nothing contained in this section shall be deemed to prevent the Developer from transferring control of the Association to Owners other than the Developer before the occurrence of the events described in the Articles of Incorporation.

3.23 Failure to Elect Director Quorum.

If the Association or the Board of Directors fails to fill vacancies on the Board of Directors sufficient to constitute a quorum, any Owner may apply to the circuit court within whose jurisdiction the subdivision is situated for the appointment of a receiver to manage the affairs of the Association, in the manner prescribed in the Act. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs, and attorneys' fees. The receiver shall have all the powers and duties of a duly constituted Board of Directors and shall serve until the Association fills vacancies on the Board sufficient to constitute a quorum.

**ARTICLE IV  
POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

All of the powers and duties of the Association existing under the Act, the Declaration, the Articles and these Bylaws shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors or employees, subject only to the approval by Owners when that approval is specifically required. The powers and duties of the Board shall include, but shall not be limited to, the following:

- 4.1 Maintenance, Management and Operation of the Association Property.
- 4.2 Contract, Sue or Be Sued.

After the Owners are entitled to elect a majority of the Board of Directors of the Association, the Association may institute, maintain, settle or appeal actions or hearings in its name on behalf of all Owners concerning matters of common interest, including but not limited to the common elements and commonly-used facilities. The statute of limitations for any actions in law or equity that the Association may have shall not begin to run until the Owners have elected a majority of the members of the Board of Directors.

4.3 Right of Access to Lots.

The Association has the irrevocable right of access to each Lot during reasonable hours as necessary for the maintenance, repair or replacement of any common property or for making emergency repairs necessary to prevent damage to the common property or to another Lot or Lots.

- 4.4 Make and Collect Assessments.
- 4.5 Lease, Maintain, Repair and Replace the Common Property.
- 4.6 Lien and Foreclosure for Unpaid Assessments.

The Association has a lien on each Lot and Lot for any unpaid' assessments with interest and

for reasonable attorneys fees incurred in the collection of the assessment or enforcement of the lien. It also has the power to purchase the Lot and Lot at the foreclosure sale and to hold, lease, mortgage or convey the same.

4.7 Acquire Use Interest in Recreational Facilities.

The Association may enter into agreements, acquire leaseholds, memberships and other possessory or use interests in lands or facilities, such as country clubs, golf courses, marinas and other recreational facilities, whether contiguous to the subdivision property or not if: (a) they are intended to provide enjoyment, recreation or other use or benefit to the Owners and (b) if they exist or are created at the time the Declaration was recorded and they are fully stated and described in the Declaration.

4.8 Authorize Certain Amendments.

If it appears that through a drafter's error in the Declaration that the common property, common expenses or common surplus has been stated or distributed improperly, an amendment to the Declaration correcting that error may be approved by the Board of Directors or a majority of the Owners. No Owners except those directly affected must join in the execution of the amendment.

4.9 Adopt Rules and Regulations.

The Association may adopt reasonable rules and regulations for the use of the common elements, common areas and recreational facilities serving the subdivision.

4.10 Maintain Accounting Records.

4.11 Obtain Insurance.

The Association shall use its best efforts to obtain and maintain adequate insurance to protect the Association and the common elements.

4.12 Furnish Annual Financial Reports to Members.

4.13 Give Notice of Liability Exposure.

If the Association may be exposed to liability in excess of insurance coverage in any legal action, it shall give notice of the exposure to all Owners, who shall have the right to intervene and defend.

4.14 Provide Certificate of Unpaid Assessment.

Any Owner, mortgagee or other record lienholder has the right to require from the Association a certificate showing the amount of unpaid assessments respecting the Owner's Lot.

4.15 Contract for Maintenance and Management of the Association.

4.16 Pay Taxes or Assessments Against the Common Elements or Association Property.

4.17 Pay Costs of Utilities Services Rendered to the Association Property and Not Billed Directly to Individual Owners.

4.18 Employ Personnel.

The Association may employ and dismiss personnel as necessary for the maintenance and operation of the common property and may retain those professional services that are required for those purposes.

4.19 Impose Fines.

Pursuant to §720.305, Florida Statutes, the Board of Directors may suspend the rights of any Owner, his tenants, guests, or invitees, to use the Common Areas and facilities and may impose fines on Owners (or Lot occupants, invitees, licensees) in such reasonable sums as they may deem appropriate, not to exceed the maximum amount allowed by statute, for violations of the Act, the Declaration, the Articles, these Bylaws and lawfully adopted rules and regulations, by owners or their guests or tenants. The Board may collect those fines in one or more installments. Each day of violation shall continue shall be a separate violation. A fine or suspension may not be imposed without notice of at least 14 days to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed.

4.20 Suspend Rights of Delinquent Owners.

The Board of Directors may not suspend the right of any Owner, his tenants or guests, to use common property as long as the Owner is not delinquent in the payment of assessments for common expenses.

4.21 Authorize Private Use of the Common Elements.

The Board of Directors may authorize Owners or others to use portions of the common property, such as social rooms and meeting rooms for private parties and gatherings, for which reasonable charges may be imposed.

4.22 Repair or Reconstruct Improvements after Casualties.

4.23 Lien for Labor and Materials Furnished to the Common Property.

Labor performed on or materials furnished to the common elements, if authorized by the Board of Directors, may be the basis for the filing of a lien against all Lots in the proportions for which the Owners are liable for common expenses.

**ARTICLE V  
OFFICERS**

5.1 Executive Officers.

The executive officers of the Association shall be a President, who shall be a director, a Vice President, who shall be a director, a Treasurer, a Secretary and an Assistant Secretary. The officers shall be elected annually by the Board of Directors and may be removed without cause at any meeting by a vote of a majority of all of the directors. A person may hold more than one office except that the President may not also be the Secretary or Assistant Secretary. No person shall sign an instrument nor perform an act in the capacity of more than one office. The Board of Directors from time to time shall elect other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

5.2 President.

The President shall be the chief executive officer of the Association. He shall have all of the powers and duties that usually are vested in the office of president of an association, including but not limited to the power to appoint committees from among the members to assist in the conduct of the affairs of the Association as he in his discretion may determine appropriate. He shall preside at all meetings of the Board.

5.3 Vice President.

The Vice President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise those other powers and perform those other duties as shall be prescribed by the directors.

5.4 Secretary.

The Secretary shall keep the minutes of all proceedings of the notices to the members and directors and other notices required by law. He shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the directors or the President.

5.5 Treasurer.

The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. He shall submit a Treasurer's report to the Board at reasonable intervals and shall perform all other duties incident to the office of treasurer. All money and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board.

5.6 Compensation.

The compensation, if any, of all officers and other employees of the Association shall be fixed by the Board of Directors. This provision shall not preclude the Board from employing a director as an employee of the Association or preclude the contracting with a director for the management of the Association.

ARTICLE VI  
FISCAL MANAGEMENT

6.1 Board Adoption of Budget.

The Board of Directors shall adopt a budget for the common expenses of the Association in advance of each fiscal year at a special meeting of the Board called for that purpose at least 45 days before the end of each fiscal year.

6.2 Budget Requirements.

The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, when applicable, but not limited to:

- (a) Administration of the Association;
- (b) Management fees;
- (c) Maintenance;
- (d) Rent for recreational and other commonly used facilities;
- (e) Taxes on association property;
- (f) Taxes on leased areas;
- (g) Insurance;
- (h) Security provisions;
- (i) Other expenses;
- (j) Operating capital;
- (k) Reserve accounts for capital expenditures and deferred maintenance, including, but not limited to pavement resurfacing. Reserves may be waived or reduced from the annual budget by a majority vote at a duly called meeting of the Association if they shall determine, for a fiscal year to provide no reserves. Such reserve funds and any interest accruing thereon shall remain in the reserve account for authorized reserve expenditures, unless their use for other purposes

is approved in advance by a vote of the majority of the voting interests present at a duly called meeting of the Association.

6.3 Accounting Records and Reports.

The Association shall maintain accounting records in the county in which the subdivision is located, according to good accounting practices. The records shall be open to inspection by Owners or their authorized representatives at reasonable times. The records shall include but are not limited to: (a) a record of all receipts and expenditures and (b) an account for each Lot, designating the name and current mailing address of the Owner, the amount of each assessment, the dates and amounts in which the assessments come due, the amount paid on the account and the balance due. Within 60 days after the end of each fiscal year, the Board of Directors shall mail or furnish by personal delivery to each Owner a complete financial report of actual receipts and expenditures for the previous 12 months.

6.4 Depository.

The depository of the Association shall be those banks or savings and loan associations, state or federal, located in Florida, as shall be designated from time to time by the Board of Directors and in which the money for the Association shall be deposited. Withdrawal of money from those accounts shall be only by checks or other withdrawal instruments signed by those persons as are authorized by the directors. Reserve and operating funds of the Association shall not be commingled for any purpose.

6.5 Fidelity Bonding.

Each person who controls or disburses funds of the Association shall be bonded by a fidelity bond. The cost of bonding shall be at the expense of the Association. The amount of the fidelity bond shall be as follows: if the Association's annual gross receipts do not exceed \$100,000.00, the bond shall be in the principal sum of not less than \$10,000.00 for each such person. If the Association's annual gross receipts exceed \$100,000.00, but do not exceed \$300,000.00, the bond shall be in the principal sum of \$30,000.00 for each such person. If the Association's annual gross receipts exceed \$300,000.00, the bond shall be in the principal sum of not less than \$50,000.00 for each such person.

6.6 Annual Election of Income Reporting Method.

The Board of Directors shall make a determination annually, based on competent advice, in what form it shall cause the Association's income to be reported to the Internal Revenue Service, according to which method of reporting shall best serve the interests of the Association for the reporting period under consideration.

ARTICLE VII  
ASSESSMENTS AND COLLECTION

7.1 Assessments, Generally.

Assessments shall be made against the Owners not less frequently than quarterly in the discretion of the Board of Directors. The assessments shall be made in an amount no less than required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. The assessment funds shall be collected against Owners in the proportions or percentages provided in the Declaration. Owners shares of common expenses shall be in the same proportions as their ownership interest in the common elements.

#### 7.2 Emergency Assessments.

Assessments for common expenses of emergencies that cannot be paid from the annual assessment for common expenses shall be made by the Board of Directors after 30 days notice given to the Owners. These assessments shall be paid at the times and in the manner that the Board may require in the notice of assessment.

#### 7.3 Other Charges.

Charges by the Association against members for items or services other than common expenses shall be payable in advance and may be collected along with common expenses. Charges for items or services other than common expenses may be made only after approval of a member or when expressly provided for in the Declaration or other Association documents. These charges may include, without limitation, charges for the use of the Association property or recreation area, maintenance services furnished at the expense of a member and other services furnished for the benefit of a member.

#### 7.4 Liability for Assessments.

Each Owner, regardless of how title is acquired, shall be liable for all assessments coming due while he is the Owner. The Owner and his grantee in a voluntary conveyance shall be jointly and severally liable for all unpaid assessments due and payable up to the time of the voluntary conveyance. The liability for assessments may not be avoided by waiver of the use or enjoyment of any common element or by abandonment of the Lot for which the assessments are made.

#### 7.5 Assessments, Amended Budget.

If the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board of Directors. Unpaid assessments for the remaining portion of the year for which an amended assessment is made shall be payable in as many equal installments as there are installment payment dates remaining in the budget year as of the date of the amended assessment. The budget shall not be amended for emergency or special nonrecurring expenses.

#### 7.6 Collection; Interest, Application of Payment.

Assessments and installments on them, if not paid within ten days after the date they become due, shall bear interest at the rate of 18% per year. The Association may also assess a late charge on delinquent assessments in addition to such interest in an amount not to exceed the greater of twenty-five dollars (\$25.00) or five percent (5%) of each installment of the assessment for each delinquent

installment that the payment is late. Any payment received shall be applied first to interest accrued, next to late charges, then to any costs and reasonable attorney's fees incurred in collection, and lastly to the delinquent assessment.

#### 7.7 Lien for Assessment.

The Association has a lien on each Lot and Lot for any unpaid assessments with interest and for reasonable attorneys' fees incurred by the Association incident to the collection of the assessment or enforcement of the lien. The claim of lien shall secure all unpaid assessments, interest, late charges, costs and attorneys' fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgment of foreclosure.

#### 7.8 Collection Suit, Notice.

The Association may bring an action to foreclose any lien for assessment in the manner that a mortgage of real property is foreclosed. It also may bring an action to recover a money judgment for the unpaid assessment without waiving any claim of lien. The Association is entitled to recover its reasonable attorneys fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid assessments. The Association shall give notice to the Owner of its intention to foreclose its lien at least 30 days before the foreclosure action is filed. The notice shall be given by delivery of a copy of it to the Owner or by certified mail, return receipt requested, addressed to the Owner.

### ARTICLE VIII ASSOCIATION CONTRACTS, GENERALLY

#### 8.1 Fair and Reasonable Cancellation.

Any contracts made by the Association before the Owners assume control from the Developer must be fair and reasonable. All contracts for the operation, maintenance or management of the Association or property serving the Owners, made by the Association, whether before or after assumption of control of the Association by the Owners, must not be in conflict with the powers and duties of the Association or the rights of the Lot owners. Contracts made by the Association before the Owners assume control may be canceled by the Owners after assumption of control in the manner and under the circumstances as provided in the Act.

Any contract that is not to be fully performed within one (1) year from its making or any contract for the purchase, lease, or renting of materials or equipment to be used by the Association in accomplishing its purposes and any contract for the provision of services shall be in writing. If a contract for the purchase, lease, or renting of materials or equipment or for the provision of services requiring payment by the Association exceeds 5% of the total annual budget of the Association, including reserves, the Association shall obtain competitive bids for the materials, equipment, or services. Nothing contained herein shall be construed to require the Association to accept the lowest bid. Notwithstanding the foregoing, contracts with employees of the Association which does not include managers hired by the Association licensed or required to be licensed pursuant to §468.431, F.S., and contracts for attorney's, accountant's, architect's, engineer's and landscape architect's services shall not be subject to the provisions hereof. Nothing contained herein



is intended to limit the ability of the Association to obtain needed products and services in an emergency. The provisions hereof shall not apply if the business entity with which the Association desires to enter into a contract is the only source of supply within the county serving the Association. If allowed under applicable statute, the Association may waive the requirement of this paragraph as provided in such statute.

8.2 Vending Equipment.

The Developer may obligate the Association under lease agreements or other contractual arrangements for vending equipment. The leases or agreements for the vending equipment may not be subject to cancellation by Owners other than the Developer if the vending equipment leases or agreements contain certain provisions as prescribed by the Act.

8.3 Escalation Clauses in Management Contracts Prohibited.

No management contract entered into by the Association shall contain an escalation clause, since they have been declared to be against the public policy of the State of Florida.

8.4 Requirements for Maintenance and Management Contracts.

Written contracts for operation, maintenance and management entered into by the Association must contain certain elements in order to be valid and enforceable. These include, but are not limited to:

- (a) Specification of the services, obligations and responsibilities of the service provider.
- (b) Specification of costs for services performed.
- (c) An indication of frequency of performance of services.
- (d) Specification of minimum number of personnel to provide the services contracted for.
- (e) The disclosure of any financial or ownership interest that the Developer has in the service provider, if the Developer is in control of the Association.

**ARTICLE IX  
ROSTER OF OWNERS AND MORTGAGEES**

Each Owner shall file with the Association a copy of the deed or other instrument showing his ownership, together with a copy of any mortgage on his Lot and any satisfaction of that mortgage. The Association shall maintain these documents in a suitable binder for reference as required in the exercise of its powers and duties.

**ARTICLE X  
COMPLIANCE AND DEFAULT**

10.1 Violations, Notice, Actions.

In the case of a violation (other than the nonpayment of an assessment) by a Owner of any of the provisions of the Act, the Declaration, the Articles, these Bylaws or any lawfully adopted rules and regulations, the Association by direction of its Board of Directors may transmit to the Owner by certified mail, return receipt requested, a notice of the violation. If the violation shall continue for a period of 30 days from the date of the notice, the Association shall have the right to treat the violation as an intentional and material breach of the provision cited in the notice. It then, at its option, may take the following actions:

(a) File an action to recover for its damages on behalf of the Association or on behalf of other Owners.

(b) File an action for injunctive relief requiring the offending Owner to take or desist from taking certain actions.

(c) File an action for both damages and injunctive relief.

A Owner may bring an action against the Association for damages, injunctive relief, or both, if the Association fails to comply with the provisions of the Act, the Declaration, the Articles, these Bylaws or the rules and regulations.

The foregoing actions may be taken in addition to the Association's right to suspend an Owner's rights or to impose fines under of these Bylaws.

#### 10.2 Attorneys' Fees.

In any action brought pursuant to the provisions of 10.1, the prevailing party is entitled to recover reasonable attorneys' fees. As used in these Bylaws or in the Declaration, attorneys' fees shall include fees incurred in all appeals and in bankruptcy and any legal assistants' fees associated therewith.

#### 10.3 No Waiver of Rights.

Neither a Owner nor the Association may waive a provision of the Act if that waiver would adversely affect the rights of a Owner or the purposes of the provision, except that Owners or Board members may waive notice of specific meetings in writing.

### ARTICLE XI

#### LIABILITY SURVIVES MEMBERSHIP TERMINATION

Termination of membership in the Association shall not relieve or release a former member from any liability or obligation incurred with respect to the Association during the period of membership, nor impair any rights or remedies that the Association may have against the former member arising out of his membership and his covenants and obligations incident to that membership.

**ARTICLE XII  
LIMITATIONS ON OWNER LIABILITY  
FOR USE OF COMMON ELEMENTS**

Each Owner may be personally liable for the acts or omissions of the Association relating to the use of the common elements. That liability shall be shared with other Owners in the same percentages as their respective interests in the common elements. No individual Owner's liability shall exceed the value of his Lot.

**ARTICLE XIII  
PARLIAMENTARY RULES**

ROBERTS' RULES OF ORDER (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Act, the Declaration, the Articles or these Bylaws.

**ARTICLE XIV  
RULES AND REGULATIONS**

14.1 Board May Adopt.

The Board of Directors may adopt and amend, from time to time, reasonable rules and regulations governing the details of the use and operation of the common elements, common areas and recreational facilities serving the subdivision.

14.2 Posting and Furnishing Copies.

A copy of the rules and regulations adopted from time to time by the Board of Directors, and any amendments to existing rules and regulations, shall be posted in a conspicuous place on the Association property and a copy furnished to each Owner. No rule, regulation or amendment shall become effective until 30 days after posting, except in the case of an emergency, in which case the rule, regulation or amendment shall become effective immediately on posting.

14.3 Limitations on Authority.

The Board of Directors may not unreasonably restrict any Owner's right to peaceably assemble or right to invite public officers or candidates for public office to appear and speak in common elements, common areas and recreational facilities. The Board may not deny any resident of the Association, whether tenant or owner, access to any available franchised or licensed cable television service or exact a charge or anything of value in excess of charges normally paid for like services by residents of single-family homes within the same franchise or license area.

14.4 Reasonableness Test.

Any rule or regulation created and imposed by the Board of Directors must be reasonably related to the promotion of the health, happiness and peace of mind of the Owners and uniformly applied and enforced.

**ARTICLE XV  
RESTRICTIONS ON AND REQUIREMENTS FOR  
USE, MAINTENANCE AND APPEARANCE OF THE LOTS**

15.1 Where Contained.

Restrictions on the use, maintenance and appearance of the individual Lots shall be as stated in the Declaration and no amendments or additions shall be contained elsewhere than in the Declaration as adopted by a vote of the Owners in the manner prescribed elsewhere in these Bylaws.

15.2 Tests for Validity of Restricting.

Restrictions contained in the Declaration and any amendments duly adopted by a vote of the Owners shall be valid and in the nature of covenants running with the land, unless it is shown that they: (1) are wholly arbitrary in their application; (2) are in violation of public policy; or (3) abrogate some fundamental constitutional rights.

**ARTICLE XVI  
BYLAWS DEEMED AMENDED**

These Bylaws shall be deemed amended in those particulars as may be required to make them consistent with the provisions of the Act, as it may be amended from time to time.

**ARTICLE XVII  
PRIORITIES IN CASE OF CONFLICT**

In the event of conflict between or among the provisions of any of the following, the order of priorities shall be, from highest priority to lowest:

- (a) The Act
- (b) The Declaration
- (c) The Articles
- (d) These Bylaws
- (e) The Rules and Regulations

**ARTICLE XVIII  
INDEMNIFICATION**

Every officer and director of the Association shall be indemnified by the Association against all expenses and liabilities, including reasonable attorneys fees incurred and imposed in connection with any proceedings to which he may be a party, or in which he may become involved by reason of his being or having been an officer or director of the Association, whether or not he is an officer or director at the time the expenses are incurred. The officer or director shall not be indemnified if he is adjudged guilty of gross negligence or willful misconduct or shall have breached his fiduciary duty to the members of the Association. The Association shall not be liable, however, for payment of a voluntary settlement unless it is first approved by the Board of Directors. The foregoing rights shall be in addition to and not exclusive of all other rights to which the director or officer may be

entitled.

## ARTICLE XIX AMENDMENTS

Except as otherwise provided in the Declaration, amendments to these Bylaws may be proposed and adopted in the following manner:

### 19.1 Proposal.

Amendments to these Bylaws may be proposed by a majority of the Board, or by written petition to the Board signed by at least one-fourth (1/4th) of the voting interests.

### 19.2 Procedure.

Upon any amendment to these Bylaws being proposed by said Board or Owners, the proposed amendment shall be submitted to a vote of the owners not later than the next annual meeting for which property notice can be given.

### 19.3 Vote Required.

Except as otherwise provided by law, or by specific provision of the Association documents, these Bylaws may be amended if the proposed amendment is approved by at least two-thirds (2/3rds) of the voting interests presented in person or by proxy and voting at any annual or special meeting called for the purpose, provided that notice of the amendment has been given to the members in accordance with law.

### 19.4 Recording; Effective Date.

A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted, which certificate shall be executed by the President or Vice President of the Association. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Sarasota County, Florida. The certificate must identify the book and page of the Public Records where the Declaration of Restrictions is recorded.

### 19.5 Format.

Proposals to amend existing Bylaws shall contain the full text of the Bylaws to be amended. New words shall be underlined and words to be deleted shall be lined through with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying "SUBSTANTIAL REWORDING OF BYLAW. SEE BYLAW NUMBER \_\_\_\_\_ FOR PRESENT TEXT."

**ARTICLE XX  
MISCELLANEOUS**

20.1 Gender and Number. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine, or neuter; singular or plural, as the context requires.

20.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

20.3 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration or Articles of Incorporation, the provisions of the Declaration or Articles of Incorporation shall prevail over the provisions of these Bylaws.

The foregoing were adopted as the Bylaws of RED HAWK RESERVE HOMEOWNERS ASSOCIATION, INC., on the <sup>21<sup>st</sup></sup>~~20~~ day of September, 2004.

RED HAWK RESERVE HOMEOWNERS  
ASSOCIATION, INC.

By: \_\_\_\_\_

  
N.J. Olivieri, President

## EXHIBIT "D"

### Legal Description of Golf Course Parcel

A parcel of land lying in Sections 7, 8, 17 & 18, Township 37 South, Range 19 East, Sarasota County, Florida, also being a part of Foxfire Subdivision as recorded in Plat Book 23, Pages 33, 33A through 33E, Public Records of Sarasota County, Florida, and being more particularly described as follows:

Commence at the Northwest corner of said Section 8; thence S.00°07'40"W., along the West line of said Section 8, a distance of 56.20 feet to the POINT OF BEGINNING, said point being the Northwest corner of Lot 1 of said Foxfire Subdivision, which is on the Southerly Right of Way line of Proctor Road, (25 feet from the centerline); thence continue S.00°07'40"W., along said East line of Section 8, same being the West line of Lots 1, 2 and 3 of said Foxfire Subdivision, a distance of 770.00 feet; thence S.54°40'39"E., along the Southerly line of Lots 3 and 4 of said Foxfire Subdivision, a distance of 237.45 feet; thence S.77°06'06"E., along the Southerly line of said Lot 4, a distance of 225.00 feet; thence N.81°24'58"E., along the South line of Lot 5 of said Foxfire Subdivision, a distance of 245.78 feet to a point on a curve turning to the left, same being a point on the Westerly line of Lot 10 of said Foxfire Subdivision, having: a radius of 1080.00 feet, a delta angle of 46°29'40", a chord bearing of S.17°43'05"W., a chord length of 852.55 feet; thence along the arc of said curve, same being the Westerly line of Lots 10 through 13 of said Foxfire Subdivision, an arc length of 876.40 feet to the end of said curve, same being a point on a curve turning to the left, having: a radius of 850.00 feet, a delta angle of 118°59'27", a chord bearing of S.64°57'44"E., a chord length of 1464.70 feet; thence along the arc of said curve, same being the Southerly line of Lots 13 through 19 of said Foxfire Subdivision, an arc length of 1765.26 feet to the point of tangency; thence N.55°32'33"E., along the Southerly line of Lots 19, 20 and 21 of said Foxfire Subdivision, a distance of 279.18 feet to a point on the Westerly boundary line of the Foxfires Owners Association, Inc. tennis courts: the following 8 calls are along the boundary of said tennis courts; (1) thence S.34°27'24"E., a distance of 10.00 feet; (2) thence S.55°33'43"W., a distance of 30.03 feet; (3) thence S.34°26'07"E., a distance of 74.53 feet; (4) thence N.55°41'50"E., a distance of 5.03 feet; thence (5) N.34°45'16"W., a distance of 6.00 feet; (6) thence N.55°31'52"E., a distance of 126.00 feet; (7) thence N.26°37'08"E., a distance of 28.45 feet; (8) thence N.34°22'31"W., a distance of 64.62 feet to a point on said Southerly line of Lot 21; thence N.55°32'33"E., along said Southerly line of Lot 21, a distance of 81.98 feet to the Westerly Right of Way line of Proctor Road, (50 foot wide Public Right of Way); thence S.34°25'40"E., along said Westerly Right of Way line, a distance of 1288.00 feet to the Easterly corner of Lot 32 of said Foxfire Subdivision; thence S.55°34'20"W., along the Southeasterly line of said Lot 32, a distance of 315.02 feet to a point on a curve turning to the left, having: a radius of 465.00 feet, a delta angle of 179°55'38", a chord bearing of S.34°26'35"E., a chord length of 930.00 feet; thence along the arc of said curve, same being said Southeasterly line of Lot 32 and Westerly line of Lots 34 through 37 of said Foxfire Subdivision, an arc length of 1460.25 feet to the point of tangency; thence N.55°35'34"E., along the Southerly line of Lots 37 and 38 of said Foxfire Subdivision, a distance of 305.11 feet to the Westerly maintained Right of Way line of said Proctor Road as recorded in Road Plat Book 3,

Page 48, of the Public Records of Sarasota County, Florida: the following 6 calls are along said Westerly line of maintained Right of Way; (1) thence S.33°09'04"E., a distance of 100.31 feet; (2) thence S.34°52'26"E., a distance of 100.17 feet; (3) thence S.28°09'48"E., a distance of 100.60 feet; (4) thence S.34°26'26"E., a distance of 100.00 feet; (5) thence S.67°10'33"E., a distance of 24.97 feet; thence (6) S.34°26'26"E., a distance of 141.15 feet to the Northwesterly corner of Lot 39 of said Foxfire Subdivision; thence S.50°39'37"W., along the Northerly line of said Lot 39, a distance of 473.06 feet; thence S.00°32'00"W., along the West line of said Lot 39, a distance of 140.05 feet to the Northeast corner of Lot 44 of said Foxfire Subdivision; thence N.89°29'22"W., along the North line of Lots 40 through 44 of said Foxfire Subdivision, a distance of 994.15 feet; thence S.40°12'20"W., along a line as described in Official Records Book 1405, Page 121, Public Records of Sarasota County, Florida, a distance of 10.74 feet; thence S.11°51'37"W., along a line as described in said Official Records Book 1405, Page 121, a distance of 14.49 feet to a point on a line as described in Official Records Book 1294, Page 52, Public Records of Sarasota County, Florida; thence S.37°23'45"W., along said line as described in Official Records Book 1294, Page 52, a distance of 21.92 feet to a point on the West line of said Lot 40; thence S.00°32'04"W., along said West line, a distance of 459.94 feet to a point on the North Right of Way line of Clark Road (State Road 72) (100 foot wide Public Right of Way); thence N.89°27'15"W., along said North Right of Way line, a distance of 329.68 feet to a point on the East line of the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of said Section 8 extended Southerly; thence N.00°37'56"E., along said East line, a distance of 957.13 feet to the Northeasterly corner of lands described in Official Records Book 1458, Page 660, Public Records of Sarasota County, Florida; thence S.89°56'49"W. along Northerly line of said lands described in Official Records Book 1458, Page 660, a distance of 212.93 feet; thence continue along said Northerly line, N.34°54'02"W., a distance of 266.78 feet; thence continue along said Northerly line and the Northerly line of lands described in Official Records Book 1332, Page 1847, Public Records of Sarasota County, Florida, S.89°56'49"W., a distance of 960.36 feet to a point on the East line of the West 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 8; thence S.00°17'44"W. along said East line and the Southerly Extension of said East line, a distance of 1162.21 feet to a point on the aforementioned North Right of Way line of CLARK ROAD; thence N.89°27'15"W. along said North Right of Way line, a distance of 1999.04 feet; thence N.00°07'40"E., a distance of 1509.05 feet to a point on the Southerly line of Tract "A", ASHLEY SUBDIVISION, recorded in Plat Book 33, Pages 22, 22A through 22G, Public Records of Sarasota County, Florida.; thence N.86°44'31"E. along said Southerly line, a distance of 292.13 feet; thence continue along said Southerly line, N.18°14'46"E., a distance of 140.90 feet; thence continue along said Southerly line, N.60°12'09"E., a distance of 189.42 feet to a point on the East line of Tract "A" of said Ashley Subdivision; thence N.00°06'30"E., along said East line of Tract "A" and Lots 1 through 15 of said Ashley Subdivision, a distance of 3522.06 feet to a point on the aforementioned Southerly Right of Way line of Proctor Road; thence S.89°44'19"E., along said Southerly Right of Way line, a distance of 839.85 feet to the Point of Beginning.

Parcel contains 287.077 acres, more or less.



**EXHIBIT "F"**

Legal Description of the Adjacent Property

**DESCRIPTION:**

A parcel of land lying in Sections 7, 8 and 18, Township 37 South, Range 19 East, Sarasota County, Florida, described as follows:

Commence at the Southwest corner of said Section 8, Township 37 South, Range 19 East; thence  $S01^{\circ}31'02''W$  along the West line of said Section 17, a distance of 350.30 feet to a point on the North Right of Way line of State Road No. 72 (100' wide); thence  $N.89^{\circ}27'15''W.$ , along said North Right of Way line, a distance of 191.62 feet to the POINT OF BEGINNING; thence continue along said North Right of Way line,  $N.89^{\circ}27'15''W.$ , a distance of 1138.18 feet; thence  $N.00^{\circ}07'40''E.$  along a line parallel with the East line of said Section 8, a distance of 1509.05 feet to a point on the southerly line of Tract "A", Ashley Subdivision, recorded in Plat Book 33, Page 22, Public Records of Sarasota County, Florida; thence  $N.86^{\circ}44'31''E.$ , along said southerly line, a distance of 292.13 feet; thence continue along said southerly line,  $N.18^{\circ}14'46''E.$ , a distance of 140.90 feet; thence continue along said southerly line,  $N.60^{\circ}12'09''E.$ , a distance of 189.42 feet to the East line of said Tract "A"; thence  $S.12^{\circ}07'21''E.$ , along said East line, a distance of 24.21 feet; thence  $S.60^{\circ}07'41''W.$ , a distance of 147.61 feet; thence  $S.00^{\circ}00'00''E.$ , a distance of 106.02 feet; thence  $N.81^{\circ}40'45''E.$ , a distance of 118.81 feet; thence  $S.30^{\circ}16'18''E.$ , a distance of 55.50 feet to a point on a curve turning to the right, having: a delta angle of  $21^{\circ}19'16''$ , a radius of 600.00 feet, a chord bearing of  $S.86^{\circ}22'56''E.$ , a chord length of 221.99 feet; thence along the arc of said curve an arc length of 223.27 feet to the point of compound curvature of a curve turning to the right having a delta angle of  $19^{\circ}45'48''$ , a radius of 800.00 feet, a chord bearing of  $S.65^{\circ}50'24''E.$ , a chord length of 274.58 feet; thence along the arc of said curve an arc length of 275.95 feet to the point of reverse curvature of a curve turning to the left having a delta angle of  $47^{\circ}41'10''$ , a radius of 275.00 feet, a chord bearing of  $S.79^{\circ}48'05''E.$ , a chord length of 222.33 feet; thence along the arc of said curve an arc length of 228.88 feet to the point of tangency; thence  $N.76^{\circ}21'20''E.$ , a distance of 88.64 feet; thence  $S.13^{\circ}40'21''E.$ , a distance of 99.99 feet to the point of curvature of a curve turning to the right having a delta angle of  $63^{\circ}57'45''$ , a radius of 25.00 feet, a chord bearing of  $S.18^{\circ}18'31''W.$ , a chord length of 26.48 feet; thence along the arc of said curve an arc length of 27.91 feet to the end of said curve; thence  $S.13^{\circ}43'36''E.$ , a distance of 55.10 feet; to a point on a curve turning to the right having a delta angle of  $63^{\circ}49'47''$ , a radius of 25.00 feet, a chord bearing of  $S.45^{\circ}35'15''E.$ , a chord length of 26.43 feet; thence along the arc of said curve an arc length of 27.85 feet to the point of tangency; thence  $S.13^{\circ}40'21''E.$ , a distance of 33.11 feet; to the point of curvature of a curve turning to the right having a delta angle of  $11^{\circ}07'24''$ , a radius of 375.00 feet, a chord bearing of  $S.08^{\circ}06'39''E.$ , a chord length of 72.69 feet; thence along the arc of said curve an arc length of 72.80 feet to the point of tangency; thence  $S.02^{\circ}32'57''E.$ , a distance of 305.80 feet; to the point of curvature of a curve turning to the right having a delta angle of  $4^{\circ}47'03''$ , a radius of 750.00 feet, a chord bearing of  $S.00^{\circ}09'25''E.$ , a chord length of

62.61 feet; thence along the arc of said curve an arc length of 62.63 feet to the point of compound curvature of a curve turning to the right having a delta angle of  $88^{\circ}47'17''$ , a radius of 25.00 feet, a chord bearing of  $S.46^{\circ}37'45''W.$ , a chord length of 34.98 feet; thence along the arc of said curve an arc length of 38.74 feet to the point of reverse curvature of a curve turning to the left having a delta angle of  $1^{\circ}18'06''$ , a radius of 475.00 feet, a chord bearing of  $N.89^{\circ}37'39''W.$ , a chord length of 10.79 feet; thence along the arc of said curve an arc length of 10.79 feet to the end of said curve; thence  $S.00^{\circ}16'42''E.$ , a distance of 50.00 feet to the point of curvature of a curve turning to the right having a delta angle of  $100^{\circ}27'48''$ , a radius of 25.00 feet, a chord bearing of  $S.40^{\circ}02'48''E.$ , a chord length of 38.43 feet; thence along the arc of said curve an arc length of 43.84 feet to the point of compound curvature of a curve turning to the right having a delta angle of  $12^{\circ}01'06''$ , a radius of 750.00 feet, a chord bearing of  $S.16^{\circ}11'39''W.$ , a chord length of 157.03 feet; thence along the arc of said curve an arc length of 157.32 feet to the point of reverse curvature of a curve turning to the left having a delta angle of  $3^{\circ}19'10''$ , a radius of 600.00 feet, a chord bearing of  $S.20^{\circ}32'37''W.$ , a chord length of 34.76 feet; thence along the arc of said curve an arc length of 34.76 feet to the point of reverse curvature of a curve turning to the right having a delta angle of  $18^{\circ}19'25''$ , a radius of 475.00 feet, a chord bearing of  $S.28^{\circ}02'44''W.$ , a chord length of 151.26 feet; thence along the arc of said curve an arc length of 151.91 feet to the point of reverse curvature of a curve turning to the left having a delta angle of  $3^{\circ}22'52''$ , a radius of 425.00 feet, a chord bearing of  $S.35^{\circ}31'01''W.$ , a chord length of 25.08 feet; thence along the arc of said curve an arc length of 25.08 feet to the point of reverse curvature of a curve turning to the right having a delta angle of  $79^{\circ}42'37''$ , a radius of 25.00 feet, a chord bearing of  $S.73^{\circ}40'53''W.$ , a chord length of 32.04 feet; thence along the arc of said curve an arc length of 34.78 feet to the point of reverse curvature of a curve turning to the left having a delta angle of  $5^{\circ}22'13''$ , a radius of 225.00 feet, a chord bearing of  $N.69^{\circ}08'55''W.$ , a chord length of 21.08 feet; thence along the arc of said curve an arc length of 21.09 feet to the end of said curve; thence  $S.18^{\circ}09'59''W.$ , a distance of 53.34 feet to a point on a curve turning to the right having a delta angle of  $64^{\circ}52'44''$ , a radius of 25.00 feet, a chord bearing of  $S.11^{\circ}34'13''E.$ , a chord length of 26.82 feet; thence along the arc of said curve an arc length of 28.31 feet to the point of reverse curvature of a curve turning to the left having a delta angle of  $20^{\circ}19'37''$ , a radius of 443.88 feet, a chord bearing of  $S.10^{\circ}42'20''W.$ , a chord length of 156.65 feet; thence along the arc of said curve an arc length of 157.48 feet to the point of tangency; thence  $S.00^{\circ}32'32''W.$ , a distance of 46.07 feet to the Point of Beginning.