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**DECLARATION OF COVENANTS,  
CONDITIONS, EASEMENTS AND RESTRICTIONS  
FOR EAGLE CREEK**

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**DECLARATION OF COVENANTS,  
CONDITIONS, EASEMENTS AND RESTRICTIONS  
FOR EAGLE CREEK**

**THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR EAGLE CREEK** is made as of the date it is executed below, by **EAGLE CREEK DEVELOPMENT CORPORATION**, a Florida corporation, whose address is 370 Center Point Circle, Suite 1136, Altamonte Springs, Florida 32701, hereinafter referred to as "Declarant." For convenience, this instrument is hereinafter referred to as the "Declaration."

**RECITALS:**

A. Declarant is the owner of certain real property located in Orange County, Florida, which property is included within, and known generally as, the Eagle Creek DRI (for purposes of this Declaration, the real property included within the Eagle Creek DRI is herein referred to as "Eagle Creek").

B. Declarant desires to ensure that properties within Eagle Creek are subdivided, developed, improved, occupied, used and enjoyed pursuant to a uniform plan of development tailored to Eagle Creek, and in this regard, Declarant desires to impose this Declaration upon Eagle Creek, all at the times and as more particularly described in this Declaration, to the effect that such properties shall be subject to the covenants, conditions, easements and restrictions more particularly set forth herein.

C. Declarant further intends that the properties subjected to this Declaration will be developed with various common properties and facilities benefiting all owners of such property, which common properties and facilities will be owned, operated and/or maintained by an association of the owners of such property, all as more particularly set forth in this Declaration.

**NOW, THEREFORE**, Declarant, as the owner of fee simple title to Eagle Creek, hereby declares that all of properties included within Eagle Creek, once subjected to this Declaration in accordance with the terms and procedures set forth herein, either by being included in the definition of "Property" pursuant to this Declaration as originally recorded or by and through the processes established for annexation pursuant to Article II of this Declaration, are and shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with, subject to the easements, covenants, conditions, restrictions, reservations, liens and charges contained within this Declaration, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of Eagle Creek and shall run with title to such properties, shall be binding upon all parties having and/or acquiring any right, title or interest in such properties, or in any part thereof, and shall inure to the benefit of each and every person or entity, from time to time, owning or holding an interest in said properties.

**ARTICLE I**  
**DEFINITIONS**

The following words and terms when used in this Declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

A. "Architectural Guidelines" shall mean and refer to any criteria or guidelines adopted by the ARB, from time to time, including any amendments thereto, pertaining to the architectural guidelines and criteria applicable to development within Eagle Creek, all pursuant to Article X of this Declaration.

B. "Architectural Review Board" or ARB shall refer to any body/board established pursuant to the provisions of, and for the purposes set forth in, Article X of this Declaration.

C. "Articles of Incorporation" and "Bylaws" shall mean the Articles of Incorporation and the Bylaws of the Association as they may exist from time to time pursuant to, and in compliance with, the provisions of this Declaration, a true and correct copy of which, as same exist as of the date of recording of this Declaration, are attached hereto as Exhibits "A" and "B", respectively.

D. "Assessments" shall mean and refer to any assessments of an Owner by the Association for Common Expenses and other items pursuant to, and in accordance with, and for the purposes specified in, Article IX of this Declaration.

E. "Association" shall mean the Homeowners Association of Eagle Creek, Inc., a Florida not for profit corporation, its successors and assigns.

F. "Association Act" shall mean and refer to the laws of the State of Florida applicable to the operations of the Association, from time to time, including, but not necessarily limited to, those laws set forth in Chapter 720, Sections 720.301 through 720.312, Florida Statutes, 2000, as same may be amended from time to time.

G. "Board" shall mean the Board of Directors of the Association.

H. "Commercial Parcel" shall mean and refer to any Commercial Village and/or any Lot located within a Commercial Village.

I. "Commercial Village" shall mean any Village other than a Residential Village.

J. "Common Expenses" shall mean the actual and estimated expenditures, including reasonable reserves, for maintenance, operation and other services required or authorized to be performed by the Association, and for any other purpose or function of the Association, pursuant to this Declaration, including, but not limited to, expenditures incurred with respect to Common Property, all as may be found to be reasonably necessary by the Board pursuant to this Declaration, or the Bylaws or the Articles of Incorporation of the Association.



K. "Common Property" shall mean and refer to all real and personal property from time to time owned or held by the Association, or any rights or interests of the Association in any real or personal property, including, but not limited to, the Common Streets and Roads and the Surface Water Management System and any Conservation Areas and further including the benefit of all easements, rights and other interests established in favor of the Association by this Declaration or any plats of Eagle Creek or any portion thereof.

L. "Common Streets and Roads" shall mean and refer to the rights-of-way of all streets, roads, drives, courts, ways and cul-de-sacs within the Property as the same are described in and depicted on any Plat and all paving, curbs and other improvements, facilities and appurtenances constituting part of the roadway system within the Property, including, but not limited to, street lights, traffic control signage and utility lines, conveyed to the Association as Common Property pursuant to this Declaration; but, specifically not including any utility lines located within such rights-of-way as may be owned by private or public utility companies or governmental agencies from time to time providing utility services to the Property; and provided, further, that Common Streets and Roads shall not include any areas, improvements or facilities from and after the time that such areas, improvements or facilities are dedicated to the County or other appropriate governmental or quasi-governmental entity.

M. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout Eagle Creek. Such standard may be more specifically determined by the Board and/or the ARB.

N. "Compatibility Plan" shall mean and refer to the Eagle Creek Compatibility Plan approved by the County in connection with its approval of the Eagle Creek DRI, as same may be amended from time to time.

O. "Conservation Areas" shall mean and refer to any areas or portions of the Property from time to time included within, or subjected to, a conservation easement pursuant to the provisions of Article VIII, Section 13.

P. "County" shall mean and be defined as Orange County, Florida, a political subdivision of the State of Florida, specifically including each and all of its departments and agencies.

Q. "Declarant" shall mean and refer to Eagle Creek Development Corporation, a Florida corporation, and any successor or assign designated as the Declarant pursuant to the provisions of Article XIX, Section 5 of this Declaration.

R. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek, as same may from time to time be amended.

S. "Design Guidelines " shall mean and refer to the Eagle Creek Design Guidelines booklet approved by the County in connection with its approval of the Eagle Creek DRI, as same may be amended from time to time.

T. "Eagle Creek" shall mean and refer to the real property included within the Eagle Creek DRI.

U. "Eagle Creek DRI" shall mean and refer to the Development Order for Eagle Creek Development of Regional Impact approved by the Board of County Commissioners for Orange County, Florida at its meeting of December 11, 2002, as same may be amended from time to time.

V. "Gated Communities Code" shall mean and refer to Article VIII, Sections 34-280, 34-290 and 34-291 of the Orange County Code, as same may from time to time be amended; provided, however, that in the event of future amendments to the Gated Communities Code containing terms or provisions that are inconsistent with the terms and provisions of this Declaration and compliance with which is not made mandatory upon the Declarant or Association by the Gated Communities Code, then the terms and provisions of this Declaration shall control over such non-mandatory inconsistent terms and provisions of the Gated Communities Code.

W. "Gated Community Subdivision Infrastructure" shall mean and refer to the Common Streets and Roads and any related sidewalks located adjacent to the Common Streets and Roads, and the Surface Water Management System.

X. "Gated Residential Lot" shall mean and refer to any Lot access to which is limited through the utilization of entryway gates and related improvements and facilities.

Y. "Institutional Lender" shall mean and refer to a bank, savings bank, mortgage company, life insurance company, federal or state savings and loan association, an agency of the United States government, private or public pension fund, Veteran's Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a credit union, real estate or mortgage investment trust or any other lender generally recognized in Orange County as an institutional lender that owns or holds, insures or guarantees, a Mortgage encumbering any Residential Lot

Z. "Land Use Plan" shall mean and refer to the Master Development Plan - Map H, a copy of which is attached as Exhibit "C" to the Eagle Creek DRI, as same may be amended from time to time.

AA. "Limited Common Property" shall mean and refer to any portion of the Common Property designated as Limited Common Property by Declarant from time to time pursuant to the provisions of Article IV, Section 10 of this Declaration.

BB. "Limited Common Property Expense" shall mean Common Expenses incurred by the Association for maintenance, operation and other services required or authorized to be performed by the Association with respect to any Limited Common Property.

CC. "Lot" shall mean any numbered lot, parcel or tract, or condominium unit, created upon platting or other legal subdivision of a Village, shown upon any recorded subdivision map or plat of all or any portion of the Property. "Lot" shall include any improvements from time to time constructed, erected, placed, installed or located thereon.

DD. "Member" shall mean and refer to each member of the Association as provided in Article VI of this Declaration and shall include all Owners.

EE. "Mortgage" shall mean a permanent or construction mortgage, deed of trust, deed to secure debt, or any other form of instrument used to create a security interest in real property, including any collateral security documents executed in connection therewith.

FF. "Mortgagee" shall mean a beneficiary or holder of a Mortgage.

GG. "Owner" shall mean and refer to the owner as shown by the records of the Association (whether it be the Declarant, one or more persons, firms or legal entities), of fee simple title to any Property. Owner shall not mean or refer to the holder of a Mortgage or security deed unless and until such holder has acquired title pursuant to foreclosure proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.

HH. "Parcel" shall mean and refer to the Villages and/or Lots.

II. "Plat" shall mean and refer to any of the plats of the Property, as recorded or to be recorded in the Public Records of Orange County, Florida.

JJ. "PSP/DP" shall mean and refer to any preliminary subdivision plan/development plan for the Property as approved by Orange County, Florida from time to time.

KK. "Property" shall initially mean and include the real property included within Villages A, B, and C, as such properties are more particularly described in Exhibit "C" attached hereto and, if and when added in accordance with the terms and conditions hereof, shall also include other property within Eagle Creek which are in the future subjected to this Declaration under the provisions of Article II hereof.

LL. "Related Subdivision Infrastructure" shall mean and refer to the entrance and exit gates, and related facilities erected or installed to control access to and from the Property.

MM. "Residential Builder" shall mean and refer to a person or other entity that acquires title to any Residential Lot in furtherance of the business of constructing residential buildings or any person or other entity who acquires title to any Residential Lot for the purpose of resale or lease to a person that will acquire title to the Residential Lot in furtherance of such business.

NN. "Residential Lot" shall mean any Lot located within a Residential Village.

OO. "Residential Village" shall mean any Village with a land use designation as shown on the Land Use Plan that allows for residential (attached or detached) development with fee simple ownership of Lots, including, but not limited to, townhouses and condominiums; but specifically not including Villages designated for multi-family residential development.

PP. "SFWMD" shall mean and refer to the South Florida Water Management District or any successor governmental agency.

QQ. "Supplement" shall mean any supplement, amendment or modification of this Declaration made consistent with, and pursuant to the provisions of, this Declaration.

RR. "Surface Water Management System" shall mean the system including, but not limited to, roadway and rear-yard under-drains, and stormwater drains, detention and retention areas and facilities, designed and constructed or implemented to control discharges which are necessitated by rainfall events, and incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise control the quantity and quality of discharges from the Property.

SS. "Transfer of Control" shall mean the transfer of control of responsibility for the maintenance and repair of the Gated Community Subdivision Infrastructure from the Declarant to the Association.

TT. "Turnover" shall mean the transfer of operation of the Association by the Declarant as described in Article XIII of this Declaration.

UU. "Village" shall mean and refer to those portions of Eagle Creek depicted as separate developable parcels on the Land Use Plan, as same may be amended from time to time, including the golf course, all as depicted in Exhibit "D" attached hereto and incorporated herein, or as otherwise designated by Declarant pursuant to the provisions of Article VI, Section 5 of this Declaration; provided, however, that no such portion of Eagle Creek dedicated or conveyed to governmental or quasi-governmental entities for use by or on behalf of the public shall be included in the definition of "Village".

VV. "Village Representative" shall mean and refer to the representatives selected by the Members within each Village pursuant to Article VI, Section 5 of this Declaration as the representative entitled to cast the votes attributable to the Lots within such Village on all matters requiring a vote of the Members of the Association.

WW. "Voting Member" shall mean the Declarant as to votes allocated to the Class C Member, and the Owners, or Village Representatives established pursuant to the provisions of Section 5, Article VI of this Declaration, as to the votes allocated to Class A Members or Class B Members.

**ARTICLE II**  
**PROPERTY SUBJECT TO DECLARATION**

Section 1. Property. The Property is hereby made subject to, and encumbered, governed, benefited and burdened by, this Declaration.

Section 2. Annexation and Withdrawal.

A. Declarant hereby reserves to itself, and shall hereinafter have, the right, but not the obligation, at any time and from time to time, in its sole and absolute discretion, and without notice to or the approval of any party or person whomsoever or whatsoever, including any Owner: (i) to impose this Declaration upon any real property located within Eagle Creek, and (ii) to withdraw from the provisions of this Declaration any of the Property, which continues to be owned by the Declarant and which has not been designated or dedicated as Common Property. Annexations or withdrawals under this Section 2.A. shall be accomplished by execution by Declarant of a Supplement describing the real property to be annexed or withdrawn, as the case may be, and shall become effective when such Supplement is recorded among the Public Records of the County, unless otherwise provided therein.

B. Subject to the consent of the owner thereof, and, while the Declarant owns any portion of the lands located within Eagle Creek, with consent of the Declarant, which consent may be granted or withheld in the sole and absolute discretion of Declarant, the Association may annex to the provisions of this Declaration and the jurisdiction of the Association any real property located within Eagle Creek. Such annexation by the Association shall require the affirmative vote of a majority of the voting interests of the Members present at a meeting duly called for the purpose of considering and voting upon such annexation. The annexation of land under this Section 2.B., shall be accompanied by the recordation in the Public Records of Orange County, Florida of a Supplement describing the property being annexed, signed by the President and Secretary of the Association, the Declarant and by the owner of the property being annexed. Any such annexation shall be effective upon recording unless otherwise provided therein.

C. No provision of this Declaration shall be construed to require Declarant or any other person or entity to annex or withdraw any real property to or from the scheme of this Declaration.

D. The Declarant hereby reserves the right to seek and obtain governmental approval to modify from time to time the Eagle Creek DRI or any Plat or PSP/DP. The Declarant shall not be required to follow any predetermined order of improvement or development of Eagle Creek or the Property; and it may annex additional lands and develop them before completing the development of the Property as originally or from time to time constituted. The Declarant shall have the full power to add to, subtract from or make changes in the lands included within the Property or in Eagle Creek regardless of the fact that such actions may alter the relative voting strength of the Members of the Association.

E. Covenants and restrictions applicable to annexations to the Property shall be compatible with, but need not be identical to, the covenants and restrictions applicable to the Property then subject to this Declaration. Such a condition is retained by Declarant in recognition that within the property included within Eagle Creek there will be a variety of land uses, zoning, housing types and development parameters, conditions and restrictions, thereby necessitating differing restrictive covenants.

**ARTICLE III**  
**PERMITTED USE**

Section 1. Property. All Property shall be improved and used, occupied and enjoyed solely and exclusively for such purposes as are approved for the Property pursuant to the Eagle Creek DRI and for no other uses or purposes whatsoever.

Section 2. Residential Villages. Except as hereinafter provided in Article VIII, Section 10 of this Declaration, Residential Villages shall be improved as and used, occupied and enjoyed solely and exclusively for residential (attached or detached) dwelling purposes (including, but not limited to, townhouses and condominiums) and no other uses or purposes whatsoever.

Section 3. Common Property. Common Property shall be improved, maintained, used, and enjoyed for the common recreation, health, safety, welfare, benefit and convenience of the Owners and their guests and invitees pursuant to this Declaration, except that any Limited Common Property may be improved, maintained, used and enjoyed for the common recreation, health, safety, welfare, benefit and convenience of only certain Owners, and their guests and invitees, designated by Declarant.

**ARTICLE IV**  
**COMMON PROPERTY**

Section 1. Additional Common Property. In addition to the property and interests in property included within the term "Common Property" as defined in Article I of this Declaration, Declarant, in its sole and absolute discretion, shall have the right to convey to the Association, and the Association shall be obligated upon Declarant's discretion to accept, any other property, real or personal, or interests therein, so long as such property is, in the sole discretion of Declarant, useful for the common recreation, health, safety, welfare, benefit or convenience of the Owners. Any such additional property conveyed to the Association shall become and thereafter continue to be Common Property which shall be subject to all covenants, conditions, restrictions, easements and reservations set forth in this Declaration with respect to all other Common Property.

Section 2. Restriction on Use of Common Property. The Common Property shall, subject only to the easements specified in Article VIII of this Declaration, be developed, improved, maintained, used and enjoyed solely for the purposes specified in this Declaration and in the instrument of conveyance conveying such Common Property to the Association, and for the common recreation, health, safety, welfare, benefit and convenience of the Owners and their guests and invitees and for no other purpose or purposes whatsoever. Notwithstanding anything

in the foregoing to the contrary, use of Limited Common Property may be limited to those Owners designated by Declarant pursuant to the provisions of Section 10 of this Article IV. No other use shall be made of the Common Property without the prior written consent of Declarant.

Section 3. Encumbrance as Security. The Association shall have the right in accordance with this Declaration and the Articles of Incorporation and Bylaws to (i) borrow money for the purpose of improving, replacing, restoring or expanding the Common Property and to mortgage or otherwise encumber the Common Property solely as security for any such loan or loans and (ii) engage in purchase money financing with respect to personal property and equipment purchased by the Association in connection with the performance of its duties and obligations pursuant to this Declaration and to secure the payment of the purchase price therefor by the encumbrance of the personal property and equipment so purchased; it being expressly provided, however, that any such mortgage or other encumbrance shall (i) be subject in all respects to the terms and provisions of this Declaration and any amendments hereto, and (ii) be made subordinate to the rights of the County or any other governmental agency in and to the Common Property, including but not limited to the Surface Water Management System. In no event shall the Association be entitled or empowered to mortgage or otherwise encumber any easements granted to it.

Section 4. Use by Owners. Subject to (i) any reasonable rules and regulations adopted and promulgated pursuant to this Declaration, (ii) the restrictions upon use of Common Property by Owners of Commercial Parcels and their tenants, guests or other invitees as set forth in Section 11 of this Article IV and (iii) any and all easements granted or reserved in this Declaration, each and every Owner shall have the non-exclusive right, privilege and easement to use and enjoy the Common Property for the purpose or purposes for which the same is conveyed, designated and intended by Declarant and maintained by the Association, and such nonexclusive right, privilege and easement shall be an appurtenance to and shall pass with the title to the Property; subject, however, at all times to the terms, provisions, covenants, conditions, restrictions, easements and reservations set forth in this Declaration including, without limitation, the following:

A. The right of the Association to suspend the right, privilege and easement of any Owner and such Owner's family, tenants, guests or other invitees to use the Common Property or any portion thereof designated by the Association (i) during any time in which any Assessment levied by the Association against such Owner remains unpaid and delinquent for a period of thirty (30) days or more or (ii) for any single infraction of the rules and regulations of the Association with respect to the use of the Common Property; provided, however, that except for a suspension of such right, privilege and easement occasioned by the failure of an Owner to pay any Assessment within thirty (30) days from the date that the same is levied by the Association, any suspension of the right, privilege and easement to use and enjoy the Common Property shall be made by the Association, or a committee duly appointed by the Association for that purpose, only after appropriate notice and hearing given and held in accordance with the Association Act. Notwithstanding anything herein set forth to the contrary, however, the Association shall have no right, power or authority hereunder, except upon a foreclosure as provided for herein, to suspend or otherwise unreasonably interfere with any Owner's right, privilege and easement to use the Common Streets and Roads for ingress and egress to and from such Owner's Parcel; it being expressly provided, however, that temporary interference for

purposes of appropriate identification at and clearance through access gates shall not be deemed to be an unreasonable interference with such right, privilege and easement of and for ingress and egress.

B. The right of the Association to limit the number of guests of Owners who may use the Common Property from time to time and to limit the use of the Common Property by persons not in possession of a Parcel at a particular time but owning a sufficient interest therein for classification as an Owner and Member of the Association.

C. The right of the Association to establish, promulgate and enforce reasonable rules and regulations pertaining and with respect to the use of the Common Property pursuant to Section 8 of this Article IV.

D. The right of the Association to charge reasonable admission and other fees to or for the use of the Common Property, other than for the use of easements established created or declared pursuant to this Declaration or any plat of the Property.

E. The right of the Association to take such steps as are reasonably necessary to maintain, preserve and protect the Common Property.

F. The right of the Declarant to designate Common Property as Limited Common Property and to designate which of the Owners has the right to enter upon and use the Limited Common Property.

Section 5. Delegation of Use. Any Owner shall be entitled to and may delegate the right, privilege and easement to use and enjoy the Common Property to the members of such Owner's family, tenants, guests or other invitees; subject, at all times, however, to such reasonable rules and regulations governing such delegation as may be established, promulgated and enforced by the Association pursuant to Section 8 of this Article IV. In the event and for so long as an Owner shall delegate such right, privilege and easement for use and enjoyment to tenants who reside on such Owner's Parcel, the Association shall be entitled, after the adoption and promulgation of appropriate rules and regulations with respect thereto, to limit or restrict the right of the Owner making such delegation to a tenant in the simultaneous exercise of such right, privilege and easement of and for the use and enjoyment of the Common Property.

Section 6. Waiver of Use. No Owner may exempt itself from personal liability for, or exempt such Owner's Parcel from, any Assessments duly levied by the Association, or release the Parcel owned by such Owner from the liens, charges, encumbrances and other provisions of this Declaration, or the rules and regulations of the Association, by (i) the voluntary waiver of the right, privilege and easement for the use and enjoyment of the Common Property, (ii) the abandonment of such Owner's Parcel or (iii) by conduct which results in the Association's suspension of such right, privilege and easement as provided in Section 4 of this Article IV.

Section 7. Administration and Care. The administration, regulation, care, maintenance, repair, restoration, replacement, preservation and protection of the Common Property shall be the responsibility of the Association as more particularly provided in Articles V and VI of this Declaration and in the Articles of Incorporation; subject, however, to the



obligations of the Declarant with respect to the Gated Community Subdivision Infrastructure as set forth in Article V.

Section 8. Rules and Regulations. In addition to the foregoing restrictions on the use of Common Property, the Association shall have the right, power and authority, subject to the prior written consent and approval of Declarant until Turnover, to promulgate and impose reasonable rules and regulations governing and/or restricting the use of Common Property and to thereafter change, modify, alter, amend, rescind and augment any of the same; provided, however, that no rules or regulations so promulgated shall be in conflict with the provisions of this Declaration. The rules and regulations promulgated by the Association shall be applicable to and binding upon all Common Property and all Owners and their successors and assigns, as well as upon all members of their families, their tenants, guests, and other invitees and upon all other parties claiming by, through or under such Owners.

Section 9. Payment of Assessments Not Substitute for Taxes. The payment of Assessments from time to time established, made, levied, imposed and collected by the Association pursuant to this Declaration, including, without limitation, those for the maintenance of the Common Property, shall not be deemed to be a substitute for or otherwise relieve any Owner from paying any other taxes, fees, charges or assessments imposed by the County, or any other governmental authority.

Section 10. Limited Common Property. In connection with its development of the Property, Declarant may convey or cause to be conveyed real or personal property to the Association and designate that the benefits of such property be reserved for the utilization and realization of only certain Owners; which conveyance and designation may be made by Declarant, in its sole and absolute discretion, and without notice to or the approval of any party or person whomsoever or whatsoever, including any Owner. Any such property so conveyed and designated by the Declarant shall be considered "Limited Common Property" for all purposes of this Declaration. The designation of property as Limited Common Property may be made pursuant to a Supplement or in the deed of conveyance, or upon the plat, pursuant to which such property is conveyed to the Association. Upon such conveyance, dedication and reservation of the Limited Common Property, the Owners identified by Declarant as being authorized and entitled to utilize and realize the benefits of such Limited Common Property (and all rights and interests pertaining thereto) shall have the rights to do so as are provided in this Declaration with respect to Common Property. Declarant hereby reserves to itself the right, in its sole and absolute discretion, and without notice to or the approval of any party or person whomsoever or whatsoever, including any Owner, to designate or identify, from time to time, additional Owners as being authorized and entitled to utilize and realize the benefits of any Limited Common Property designated pursuant to this Section 10. The Association shall have responsibility for the management and control of Limited Common Property pursuant to, and consistent with, its powers and duties established in Article VI of this Declaration. All costs of the Association with respect to the Limited Common Property shall be assessed only against the Owners identified by Declarant as being authorized and entitled to utilize and realize the benefits of the Limited Common Property. Additionally, any matter arising under this Declaration and pertaining to the Limited Common Property and requiring a vote of Members of the Association, shall be decided by a vote of only those Members that have been identified by Declarant as being authorized and entitled to utilize and realize the benefits of the Limited Common Property.

Section 11. Restrictions on Use of Common Property by Owners of Commercial Parcels. Notwithstanding anything in this Declaration to the contrary, including specifically, but not limited to, anything to the contrary in the foregoing provisions of this Article IV, it is the intent and shall be the effect of this Declaration that the Owners of Commercial Parcels, and their tenants, guests and other invitees, shall only have such rights of access to and use of Common Property as and to the extent specifically provided in the Supplement pursuant to which a Commercial Parcel is subjected to this Declaration, it being contemplated, but not required, that Owners of Commercial Parcels, and their tenants, guests or other invitees, shall be entitled to (i) utilize Common Streets and Roads, only as and to the extent reasonably necessary to gain access to, from and between said Commercial Parcels and the publicly dedicated right-of-way of Narcoosee Road (S.R. 15) and (ii) utilize the Surface Water Management System in compliance with any and all applicable governmental or quasi-governmental permits and approvals. Notwithstanding the foregoing limitation on the access to and use of Common Property by Owners of Commercial Parcels, each Owner of a Commercial Parcel, shall, by acceptance of a deed therefor or other form of conveyance thereof, regardless of whether it shall be so expressed in any such deed or other conveyance, be deemed to have acknowledged, covenanted and agreed that the existence and presence of Common Property enhances and protects the value, desirability and attractiveness of the Commercial Parcels and, except as specifically set forth to the contrary in this Declaration, or in the Supplement pursuant to which a Commercial Parcel is subjected to this Declaration, the presence of such use restriction does not establish any Common Property as Limited Common Property or otherwise exempt a Commercial Parcel or Owner thereof from Assessments levied by the Association in connection with the Common Property.

**ARTICLE V**  
**GATED COMMUNITY**

Section 1. Gated Community. Portions of the Property have been approved by the County and will be developed by Declarant and its successors and assigns as a gated community limiting access by the public through the utilization of entryway gates and related improvements and facilities, with ownership of the Gated Community Subdivision Infrastructure and Related Subdivision Infrastructure ultimately owned by the Association. In order to obtain approval by the County of development of such portions of the Property as a gated community, the development, ownership and operation of such portions of the Property must be conducted in accordance with the terms, provisions and requirements of the Gated Communities Code, and the terms and provisions of this Declaration must be consistent with the requirements of the Gated Communities Code. In this regard, Declarant has caused this Article V, and the provisions of Sections 7, 8, 9, 10, 11, 12 and 13 of Article IX, and the last paragraph of Section 1 and all of Section 5 of Article XIII, to be included in this Declaration (such provisions of this Article and such additional Sections being hereinafter referred to as the "Gated Community Provisions"). In the event that at any time in the future the Related Subdivision Infrastructure improvements are removed and the Gated Community Subdivision Infrastructure dedicated to the County, the Gated Community Provisions shall be deemed null and void, except to the extent otherwise required by the County in conjunction with such dedication. In addition to the foregoing, and for so long as Declarant owns any lands within Eagle Creek, Declarant specifically reserves for itself, its successors and assigns, the absolute and unconditional right to alter, modify, change, revoke, rescind or cancel any or all of the Gated Community Provisions as necessary to comply

with any obligations or requirements from time to time set forth in the Gated Communities Code or otherwise as permissible due to changes or modifications to the Gated Communities Code.

Section 2. Acknowledgment and Waivers. Each Owner, by the acceptance of a deed or other conveyance of a Parcel, shall be deemed to have acknowledged that the Gated Community Subdivision Infrastructure and Related Subdivision Infrastructure are privately owned by the Declarant or Association and are not public and shall be maintained by the Declarant or Association as and to the extent provided in this Declaration, and each such Owner shall further be deemed to have agreed that the Declarant's and Association's liability and responsibility with respect to the Gated Community Subdivision Infrastructure and Related Subdivision Infrastructure shall be only as and to the extent provided in this Declaration.

Notwithstanding the private ownership of the Gated Community Subdivision Infrastructure and the construction of the Related Subdivision Infrastructure for the purpose of limiting access by the public to the Property, neither the Declarant nor the Association, nor any of their respective partners, members, officers, directors, employees or agents shall, in any manner or way, be considered as or deemed or construed to be insurers or guarantors of the personal safety or security of any persons, including, without limitation, any Owner or any tenant, guest, invitee, employee, agent or family member of such Owner, or of any property, whether real or personal, from time to time located within or upon the Property or any portion thereof. Accordingly, neither the Declarant nor the Association, nor any of their respective partners, members, officers, directors, employees or agents shall be responsible or held liable or accountable for the injury or death of any person or for the loss of or damage to any property by reason or on account of the failure of the Declarant, Association or Related Subdivision Infrastructure to limit or control access to the Property or by reason or on account of the ineffectiveness of any activities directed, conducted, maintained or supported by the Declarant or Association for that purpose. In this regard, each Owner, for itself and on behalf of any tenants, employees, agents, guests, invitees or family members of such Owner, shall, by virtue of the acceptance of a deed or other conveyance of a Parcel be deemed to have acknowledged, understood and agreed to the foregoing and further (a) that notwithstanding any efforts or activities on the part of the Declarant or Association to limit or control access to the Property, each Owner for itself and on behalf of any tenants, employees, agents, guests, invitees and family members of such Owner, (i) shall take title to its Parcel subject to, and hereby assumes, all risk of personal injury or death and damage to or loss of property, of whatever nature, while present or situate within or upon the Property and (ii) waives, and releases Declarant and Association from, any and all claims, losses, damages, causes of action or liabilities with respect to any personal injury or death or damage to or loss of property while present or situate within or upon the Property and (b) that neither Declarant nor the Association, nor any of their respective partners, members, officers, directors, employees or agents have made, nor has any Owner, or any of Owner's tenants, employees, agents, guests, invitees or family members relied upon, any representation or warranty, whether express or implied, pertaining to (i) the exclusivity or safety of the Property, (ii) the effectiveness of any activities directed, conducted, maintained or supported by the Declarant or Association in order to provide for the exclusivity of, or limit or control access to, the Property, or (iii) the safety or security of persons or property while located or situate on or within the Property.

Section 3. Gated Community Required Accounts. In addition to such other reserve funds maintained by the Association pursuant to Article IX of this Declaration, the Association shall keep and maintain and replenish in perpetuity as required by the Gated Communities Code the following asset accounts, hereinafter referred to as the "Gated Community Required Accounts":

- A. Routine Infrastructure Maintenance Account.
- B. Capital Repair/Streets Account.
- C. Capital Repair/Drainage Pond Account.
- D. Capital Repair/Other Infrastructure Account.

The purpose of the Gated Community Required Accounts, and the use of all funds contained in such accounts, shall be as more particularly set forth in Article IX, Sections 8, 9, 10 and 11. The Gated Community Required Accounts must be maintained separate and apart from all other funds and accounts of the Association, and for accounting purposes the Association may not commingle these accounts either with each other or with other funds and accounts of the Association. However, notwithstanding anything in the foregoing to the contrary, the monies in the Gated Community Required Accounts may be commingled with monies in other Association accounts for banking and investment purposes, and may be pooled with other Association monies in a common investment program, so long as the financial books and records of the Association account for the monies within the Gated Community Required Accounts separately and apart from all other Association monies and keep the monies within the Gated Community Required Accounts earmarked for the purposes required by the Gated Communities Code. All earnings from the investment of monies held in the Gated Community Required Accounts shall remain in and form a part of the principal of the respective Gated Community Required Accounts.

Section 4. Responsibility for Maintenance of Gated Community Subdivision Infrastructure. Notwithstanding any prior conveyance of ownership of the Gated Community Subdivision Infrastructure to the Association, until the earlier to occur of (i) Turnover or (ii) Transfer of Control, Declarant is and shall remain responsible for all maintenance and repair of the Gated Community Subdivision Infrastructure as and to the extent required by the Gated Communities Code. With the written consent of the Board, the Declarant may utilize monies from the Routine Infrastructure Maintenance Account to pay for all required maintenance and repair of the Gated Community Subdivision Infrastructure and all obligations incurred by Declarant in connection therewith; provided, however, that an insufficiency of monies in the Routine Infrastructure Maintenance Account to cover the costs of such required maintenance and repair shall not act to relieve the Declarant of all or any portion of its responsibility to so maintain and repair the Gated Community Subdivision Infrastructure as set forth above. From and after Turnover or Transfer of Control, whichever occurs first, responsibility for the maintenance and repair of the Gated Community Subdivision Infrastructure, as and to the extent required by the Gated Communities Code and this Declaration, shall be the sole responsibility of the Association.

Any Related Subdivision Infrastructure shall be maintained and repaired by the Association as and to the extent all Common Property is required to be maintained by the Association pursuant to this Declaration.

Section 5. Inspections.

A. No earlier than 180 days before the earlier to occur of (i) Turnover or (ii) Transfer of Control, the Association must retain the services of a Florida registered engineer experienced in subdivision construction (other than the engineer of record for the Property as of the date of the County's approval of the subdivision infrastructure construction plans for the Property, and engineers who are principals of, employed by, or contractors of the same firm as such engineer of record) to inspect the Gated Community Subdivision Infrastructure and prepare a signed and sealed report which (i) recommends the amount of scheduled maintenance and unscheduled repair that likely will be needed each year for the Gated Community Subdivision Infrastructure in accordance with standards that may be established and revised from time to time by the County Engineer or his or her designee, (ii) recommends the amounts of money that should be deposited each year in the Routine Infrastructure Maintenance Account, and (iii) determines what repairs, if any, are needed prior to Turnover or Transfer of Control of the Gated Community Subdivision Infrastructure. The cost of obtaining the aforescribed initial engineer's report may be paid by the Association from the Routine Infrastructure Maintenance Account. A copy of the initial engineer's report shall be provided to all Owners and to the County engineer within 15 days after it is completed. Any needed repairs or replacements identified by the report shall be completed by the Declarant, at Declarant's sole expense, prior to the earlier of Turnover or Transfer of Control of the Gated Community Subdivision Infrastructure; provided, however, the Declarant may expend reserve funds in the Routine Infrastructure Maintenance Account for such maintenance and repairs as and to the extent provided in Section 4 above and as long as the maintenance and repairs are of the type the cost of which is contemplated to be paid for with monies in such account consistent with Section 8 of Article IX of this Declaration and the Gated Communities Code. In the event that Turnover or Transfer of Control of Gated Community Subdivision Infrastructure occurs and the foregoing requirements of this Section 5 have not been fulfilled, the rights of the Association, any of its Members, and any and all Owners to enforce these requirements against the Declarant, as set forth in Section 14 of this Article V, shall survive Turnover or Transfer of Control of the Gated Community Subdivision Infrastructure, with the prevailing party to be entitled to attorneys' fees and costs as set forth in Article XIX, Section 24 of this Declaration.

B. After Turnover or Transfer of Control of Gated Community Subdivision Infrastructure, the Association shall, no less frequently than once every three (3) years after the date of the initial engineer's inspection described in Sub-section 5.A. above, obtain an inspection of the Gated Community Subdivision Infrastructure by a Florida registered engineer experienced in subdivision construction. This inspection shall, using good engineering practice, and in accordance with standards that may be established and revised from time to time by the County Engineer or his or her designee, or in accordance with such higher standards as may be adopted from time to time by the Association, or in accordance with such higher standards as the Association's engineer may determine to be appropriate, determine (i) the level of maintenance and repair (both scheduled and unscheduled) needed for the Gated Community Subdivision Infrastructure, (ii) the amounts of funding needed each year for the next three (3) years in the

Routine Infrastructure Maintenance Account to pay for such maintenance and repair, and (iii) identify any repairs for the Gated Community Subdivision Infrastructure that are then needed. This inspection report shall be in a written report format and a copy of the report shall be provided to each Owner within 15 days after completion of the report. All remedial work identified by the engineer in any such engineering report shall be completed by the Association within 60 days following receipt by the Association of such engineering report unless the recommended remedial work is of such a nature or character as not to be susceptible of completion within said 60-day period, in which event, the Association shall commence within said 60-day period all actions and measures reasonably necessary to effect completion of the remedial work, and shall diligently and continuously prosecute such actions and measures to completion.

Section 6. County Indemnity. The Association, and the Declarant prior to Turnover, shall indemnify and hold the County and its officers and employees harmless from any cost of maintenance, repair and reconstruction of, or tort liability or award of damages relating to or arising in connection with, the Gated Community Subdivision Infrastructure; provided, however, that the recourse of the County as respects the liability of the Declarant shall extend only to the right, title, interest and/or estate of the Declarant in or to any of the Property. Notwithstanding anything in the foregoing to the contrary, the Association shall, from and after the date of Transfer of Control of any Gated Community Subdivision Infrastructure or Turnover, whichever is earlier, indemnify and hold the Declarant and its officers and employees harmless from any cost of maintenance, repair and reconstruction of, or tort liability or award of damages relating to or arising in connection with, the Gated Community Subdivision Infrastructure.

Section 7. No Tax Discount. No Owner shall be entitled to any discount against property or other taxes based upon the existence or ownership of the Gated Community Subdivision Infrastructure.

Section 8. Required Disclosures to Initial Buyers. Any Owner that conveys a Gated Residential Lot to the first person or entity other than a Residential Builder (such first purchaser/Owner other than a Residential Builder acquiring a Lot is hereinafter referred to as an "Initial Buyer") shall provide to the Initial Buyer at, or prior to, the time of execution of the contract for the sale of such Gated Residential Lot (i) a copy of this Declaration, (ii) a copy of the then-current budget for the Association, including a schedule disclosing the then-existing amounts of the periodic Assessments for the Gated Community Required Accounts and (iii) a copy of the most recent year-end financial statements for the Association or, if none are then existing, a good faith estimate of the operating budget of the Association. The Owner shall further provide to such Initial Buyer a form to be signed by such Initial Buyer acknowledging receipt of a copy of the Declaration, budget, financial statement (or good faith estimate) as required above, the original of which form must be attached to such sales contract as an exhibit or appendix.

The schedule provided to the Initial Buyer disclosing the then-existing amounts of the periodic assessments for the Gated Community Required Accounts must also state that the periodic assessments for the Gated Community Required Accounts do not include assessments for either the routine maintenance of or the capital repair and replacement of Common Property other than the Gated Community Subdivision Infrastructure (such as common area landscaping,

walls, swimming pools, clubhouses, etc.) and that such assessments may only be used for the maintenance, repair and replacement of Related Subdivision Infrastructure under certain terms and conditions as more specifically set forth in this Declaration.

The disclosure requirements of the preceding paragraphs of this Section 8 shall not apply to resales of Gated Residential Lots by the Initial Buyer or sales of the Gated Residential Lot by any Owner after the Initial Buyer or sales of the Lot by any Owner after the Initial Buyer.

Each Owner is hereby put on notice that no contract for the conveyance of a Gated Residential Lot to an Initial Buyer shall be effective until the Disclosure Statement required by the Gated Communities Code has been provided to the Initial Buyer. The Disclosure Statement must be provided to the prospective Initial Buyer, at or prior to the time of execution of the contract for the sale of such Gated Residential Lot, as a single document provided to such prospective Initial Buyer separately from the remainder of the documents required for the contract for purchase and other documents required above.

Section 9. Gated Community Disclosure Statement. The following disclosure is set forth in this Declaration as required by the Gated Communities Code:

IF YOU ARE BUYING A HOME IN A PRIVATE GATED COMMUNITY IN ORANGE COUNTY YOU SHOULD KNOW THESE BASIC FACTS:

1. BY LAW ORANGE COUNTY CANNOT PAY TO MAINTAIN THE ROADS, SIDEWALKS AND DRAINAGE IN THIS COMMUNITY BECAUSE THESE THINGS ARE PRIVATE PROPERTY AND THE GENERAL PUBLIC CANNOT ACCESS THE COMMUNITY.
2. ALTHOUGH THE COST OF PROPERLY MAINTAINING AND REPAIRING ROADS, SIDEWALKS AND DRAINAGE SYSTEMS CAN BE VERY HIGH, ONLY THE OWNERS OF HOMES AND LOTS IN THIS COMMUNITY WILL SHARE THESE EXPENSES. TAX DOLLARS WILL NOT BE USED. THE MEMBERS MUST ALSO PAY FOR THE COST OF LIABILITY INSURANCE AND TRAFFIC ENFORCEMENT ON THE COMMUNITY'S ROADS.
3. UNDER FLORIDA LAW, NO REDUCTION IN YOUR TAX BURDEN WILL RESULT FROM LIVING IN THIS COMMUNITY.
4. MEMBERS OF THIS COMMUNITY, THROUGH THEIR MANDATORY HOMEOWNERS ASSOCIATION, MUST SET ASIDE ADEQUATE RESERVES TO PROPERLY MAINTAIN, REPAIR AND REPLACE THE ROADS, SIDEWALKS AND DRAINAGE SYSTEM, AND MUST HAVE A PROFESSIONAL ENGINEER REGULARLY INSPECT THE ROADS, SIDEWALKS AND DRAINAGE SYSTEM AND REPORT WHAT WORK IS NECESSARY TO MAINTAIN AND/OR REPAIR THEM. THE MANDATORY HOMEOWNERS ASSOCIATION IS OBLIGATED TO DO THE NECESSARY WORK REPORTED AND THE MEMBERS OF THE HOMEOWNERS ASSOCIATION PAY FOR THE WORK THROUGH THEIR ASSESSMENTS.

5. THE EXTRA EXPENSES YOU INCUR TO MAINTAIN THE ROADS, SIDEWALKS AND DRAINAGE IN YOUR COMMUNITY ARE IN ADDITION TO OTHER EXPENSES CHARGED BY YOUR HOMEOWNERS ASSOCIATION TO PAY FOR PRIVATE RECREATIONAL, SECURITY AND OTHER AMENITIES AND SERVICES THE COMMUNITY MAY OFFER, INCLUDING THE COMMUNITY'S GATES.
6. AS WITH ANY ASSESSMENT, THE FAILURE OR INABILITY TO PAY MAY LEAD TO A LIEN BEING PLACED ON YOUR HOME. IF A LIEN IS PLACED AND FORECLOSED, YOU COULD LOSE YOUR HOME.
7. THE HOMEOWNERS ASSOCIATION IS ALSO REQUIRED TO MAINTAIN LIABILITY INSURANCE ADEQUATE TO PAY CLAIMS FOR INJURIES AND PROPERTY DAMAGE ARISING ON THE PRIVATE ROADWAY, SIDEWALKS, DRAINAGE PONDS AND OTHER COMMON AREAS IN THE NEIGHBORHOOD.
8. IF ORANGE COUNTY DETERMINES THAT THE COMMUNITY IS NOT MEETING ITS OBLIGATIONS, IT MAY REVOKE THE COMMUNITY'S PRIVILEGE TO CLOSE ITS GATES SO THAT THE ROADS IN THE COMMUNITY BECOME AVAILABLE FOR PUBLIC USE.
9. IF THE COMMUNITY FAILS TO MAINTAIN ITS ROADS, SIDEWALKS AND DRAINAGE SYSTEM, THE COUNTY MAY REQUIRE THAT THE GATES BE REMOVED. IN THE EVENT THE GATES ARE REMOVED, AND THE HOA DEDICATES THE ROADS AND OTHER INFRASTRUCTURE TO THE COUNTY, ALL COSTS AND EXPENSES WHICH ORANGE COUNTY INCURS FOR SUCH MAINTENANCE ARE RECOVERABLE FROM THE COMMUNITY. FUNDS WHICH HAVE BEEN SET ASIDE BY THE COMMUNITY MAY BECOME THE PROPERTY OF ORANGE COUNTY, AND THE ROADS IN YOUR COMMUNITY SHALL PERMANENTLY BECOME OPEN TO THE PUBLIC. ORANGE COUNTY WILL NOT MAINTAIN YOUR RECREATIONAL, SECURITY AND OTHER AMENITIES UNDER ANY CIRCUMSTANCES.
10. BEFORE YOU SIGN A CONTRACT BE SURE THAT YOU RECEIVE WRITTEN INFORMATION ABOUT THE COSTS OF LIVING IN THIS COMMUNITY.

Section 10. County Rights Upon Default Under Gated Community Provisions. Upon any default by the Association or Declarant in any of the Gated Community Provisions contained in this Declaration, the County, at its option and after furnishing due notice to the Association and/or the Declarant, as applicable, of its declaration of default, and after a reasonable period of time to cure such default, may prohibit closure of the gates controlling access to and from the Property and, upon dedication of the Common Streets and Roads, assume responsibility for maintenance of the Gated Community Subdivision Infrastructure, using all Association monies on deposit in the Gated Community Required Accounts, or, if no monies exist or if an



insufficient amount of money exists, such other revenues or financing methods as the County may elect, including, but not limited to, special assessments against the Property.

Section 11. Insurance. The Association shall carry an insurance policy insuring itself from liability for damages related to or arising in connection with the Gated Community Subdivision Infrastructure. The minimum amount of insurance required shall be established by resolution of the Orange County Board of County Commissioners.

Section 12. Traffic Enforcement. The enforcement of traffic laws within those portions of the Property developed as a gated community limiting access by the public, as requested by the Association, shall be by the County sheriff and all costs of enforcement incurred by the sheriff shall be paid by the Association as a Common Expense. Nothing in the foregoing is intended, however, to prevent the Association from directing, conducting, maintaining or supporting private security and traffic enforcement services within such portions of the Property, provided that same are not inconsistent with the Gated Communities Code or any agreement between the Association and County Sheriff.

Section 13. Dispute Mediation. In the event of a dispute between any Owner and the Declarant or Association, or between the Association and the Declarant, with respect to the repair and maintenance of the Gated Community Subdivision Infrastructure or the funding for such maintenance and repair, such dispute shall, as a condition precedent to the institution of legal or equitable proceedings, proceed first to non-binding mediation pursuant to and in accordance with such reasonable rules and procedures as may be adopted by the Association from time to time. The costs of the mediation shall be borne equally by the parties to the mediation, but each party shall be responsible for its own costs and expenses incurred in connection with such mediation. In the event that the parties to such mediation cannot resolve the dispute, the parties shall then proceed to resolve the dispute pursuant to and in accordance with the provisions of this Declaration pertaining to enforcement of this Declaration, including, but not necessarily limited to, Sections 10 and 24 of Article XIX of this Declaration.

Section 14. Enforcement of Gated Community Provisions. In addition to the enforcement rights set forth in Section 10, Article XIX of this Declaration, (i) the Association, any Member, and any and all Owners shall have the right jointly and severally to enforce against the Declarant the Gated Community Provisions, but in no event shall Declarant be liable to the Association or any Member or Owner for any special, indirect or consequential damages as a result of, in connection with, or related to, any failure of Declarant to comply with the requirements of the Gated Community Provisions, and (ii) any Member and any and all Owners shall have the right to enforce against the Association the requirements of the Gated Community Provisions, but in no event shall the Association be liable to any Member or Owner for any special, indirect or consequential damages as a result of, in connection with, or related to, any failure of the Association to comply with the requirements of the Gated Community Provisions. The prevailing party in any such enforcement action shall be entitled to recover attorneys' fees and costs pursuant to the provisions of Section 24, Article XIX of this Declaration. Venue for any such enforcement action shall be in the Ninth Judicial Circuit of Florida, in Orange County.

Section 15. Municipal Annexation. In the event that the Property, or any portion thereof, is annexed to a municipality, the rights and privileges inuring to the County's benefit under the Gated Community Provisions shall be deemed assigned to such municipality and shall inure automatically to such municipality's benefit.

Section 16. Conveyance of Gated Community Subdivision Infrastructure. No sale, transfer or other conveyance of the Gated Community Subdivision Infrastructure (including any portion of the Property upon which the Gated Community Subdivision Infrastructure is located) to the County or any other governmental entity may occur without the approval, by affirmative vote or written consent, or any combination thereof, of Members representing one hundred percent (100%) of the total votes of Members owning Lots within the Plat of the Property in which such Gated Community Subdivision Infrastructure is located.

## ARTICLE VI ASSOCIATION

Section 1. Membership. The Declarant and every Owner shall be Members of the Association. By acceptance of a deed or other instrument evidencing its ownership interest in a Parcel, each Owner accepts membership in the Association, acknowledges the authority of the Association herein stated, and agrees to abide by and be bound by the provisions of this Declaration, the Articles of Incorporation, the Bylaws, and other rules and regulations of the Association adopted pursuant to the provisions of this Declaration. Notwithstanding anything in this Declaration to the contrary, Owners of any Lot shall exercise all of their rights as a "Member" of the Association by and through the Village Representative process established pursuant to the provisions of Section 5 of this Article VI. However, the provisions of this Declaration pertaining to exercise of membership rights in the Association by Owners through Village Representatives are not intended, and neither shall they be deemed, to have any impact upon the obligations, duties, responsibilities or liability of any Owner arising pursuant to this Declaration. In addition to the foregoing, each Owner shall cause its family members, tenants, guests and other invitees to abide and be bound by the provisions of this Declaration, the Articles of Incorporation, the Bylaws and other rules and regulations of the Association adopted pursuant to the provisions of this Declaration.

Section 2. Voting Rights. The voting rights of the Members of the Association shall be allocated and exercised as set forth in the following provisions of this Section 2 or in the Articles of Incorporation or Bylaws, or as otherwise required by the Association Act.

A. Membership in the Association shall be divided into Class A, Class B and Class C Members and the membership in each such class, and the voting rights applicable thereto, shall be allocated as follows:

Class A. Class A Members shall be all Owners of Lots, with the exception of the Declarant (prior to Turnover). For purposes of electing Village Representatives only, Class A Members shall be allocated one vote for each Lot in which they hold the interest

required for membership in the Association pursuant to Section 1 above. Class A Members shall otherwise have no voting rights.

Class B. Class B Members shall be Owners of Villages, other than the Declarant (prior to Turnover), that has not been subdivided or platted into Lots. It is contemplated, but not required, that Class B Members shall be builders or developers who purchase an unsubdivided Village from Declarant with the intention of platting the Village into Lots. Class B Members shall be allocated one vote for each Village. Class B Members shall automatically become Class A Members as to the Lots created upon subdivision or platting.

Class C. The Class C Member shall be the Declarant, or its specifically designated (in writing) successor. The Class C Member shall be allocated a number of votes equal to three times the total number of (i) votes attributable to Village Representatives of Class A Members and (ii) Class B votes at any given time; provided, however, that Class C membership shall cease and become converted to Class A or B membership, as appropriate, upon Turnover of the Association as set forth in Article XIII of this Declaration.

B. When any Parcel entitling the Owner to membership in the Association is owned of record in the name of two or more persons or entities, whether fiduciaries, joint tenants, tenants in common, tenants in partnership, or in any other manner of joint or common ownership, or if two or more persons or entities have the same fiduciary relationship respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the secretary of the Association, such Owner shall select one official representative to represent such Parcel and exercise all rights of membership in the Association with respect thereto, including, but not limited to, voting with respect to such Parcel and shall notify in writing the Secretary of the Association of the name of such individual. The vote of each official representative shall be considered to represent the will of all the Owners of that Parcel. In the circumstance of such common ownership, if the Owners fail to designate their official representative, then the Association may accept the person asserting the right to vote as the voting Owner until notified to the contrary by the other Owner(s). Upon such notification the Owner may not vote until the Owner(s) appoint their official representative pursuant to this paragraph.

C. The voting rights of any Owner may be assigned (for the duration of the lease only) by an Owner to its tenant, if the tenant has entered into a lease with a term of two (2) years or more; provided, however, that the Owner may not assign to such tenant any vote or votes not attributable to the property actually leased by such tenant. No such assignment shall be effective until written notice thereof has been received by the Association.

D. The voting rights of any Owner may be suspended for failure to pay Assessments as specifically provided in Article IX, Section 16 of this Declaration.

E. Voting of Members as to matters under this Declaration pertaining to Limited Common Property shall be decided by a vote of only those Members identified by Declarant as being authorized and entitled to utilize and realize the benefits of the Limited Common Property.

Section 3. Change of Membership.

A. Change of membership in the Association shall be established by recording in the Public Records of Orange County, Florida of a deed or other instrument conveying record fee title to any Parcel, and by the delivery to the Association of a copy of such recorded instrument. The Owner designated by such instrument shall, by acceptance of such instrument, become a Member of the Association, and the membership of the prior Owner with respect to such conveyed land shall be terminated. In the event that a copy of said instrument is not delivered to the Association, said Owner shall become a Member, but shall not be entitled to voting privileges enjoyed by its predecessor in interest until delivery of a copy of the conveyance instrument to the Association. The foregoing shall not, however, limit the Association's powers or privileges and the new Owner shall be liable for accrued and unpaid fees and assessments attributable to the Parcel acquired.

B. An Owner's membership interest in the Association shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to the Owner's Parcel. Membership in the Association by all Owners shall be compulsory and shall continue as to each Owner until such time as such Owner of record transfers or conveys all of its interest in the Parcel upon which its membership is based or until said interest is transferred or conveyed by operation of law, at which time the membership shall automatically be conferred upon the transferee. Membership shall be appurtenant to, run with, and shall not be separated from the real property interest upon which such membership is based.

Section 4. Number and Election of Directors and Declarant Rights to Appoint Directors. The Board of Directors of the Association shall at all times consist of an odd number of directors, and shall never be less than three (3) nor more than seven (7). Directors shall be elected to the Board by a vote of the Class B Members, Class C Members and the Village Representatives of the Class A Members. Notwithstanding anything in the foregoing provisions of this Article VI to the contrary, it is the intent and shall be the effect of this Declaration that from and after Turnover of the Association by the Declarant, but only as and to the extent required pursuant to the Association Act, the Residential Villages shall be entitled to elect a majority of the Members of the Board of Directors of the Association (absent any such requirement under the Association Act, directors shall be elected solely as set forth in this Declaration or the Articles of Incorporation and Bylaws of the Association). Notwithstanding anything in the foregoing to the contrary, the Declarant shall, without regard to the number of votes allocated to Declarant, be entitled to appoint one (1) member of the Board for as long as the Declarant is the Owner of at least five percent (5%) of the sum of the existing and future Lots that will ultimately be governed by the Association. Nothing contained in the foregoing, however, is intended, nor shall be deemed, to create any obligation upon the Declarant to exercise such right to elect such one (1) director.

Section 5. Villages and Village Representatives. From and after the date that any Village is subdivided into more than one legally recognized parcel, whether by plat or other legal subdivision process, the Village Representative voting procedure set forth in this Section 5 shall be applicable. From and after institution of the Village Representative voting procedure set forth in this Section 5, voting of Members owning Lots within the subdivided Village on all

Association matters shall be conducted by and through Village Representatives established pursuant to this Section 5.

A. Each Lot within the Property shall be included within a Village. Declarant shall have the unilateral right, without the necessity of obtaining the approval of any party, including any Owner, to redesignate the composition of the Villages, including increasing or decreasing the number of such Villages. It shall not be necessary that the Lots designated to a particular Village be contiguous, or that each Village have included within it the exact same number of Lots, but Declarant shall, to the extent reasonably practicable, use its best efforts to allocate such numbers of Lots to each Village as to most fairly allocate between the Villages the voting interests of all Members of the Association. The written designations by Declarant of the Villages, as described above, as well as the identification of the Village Representative for each Village, as described below, shall be maintained by the Association along with the other records of the Members of the Association, which records shall be open for inspection and copying by the Members of the Association pursuant to the applicable provisions of the Bylaws of the Association.

B. The Members, other than the Declarant prior to Turnover, owning Lots within any designated Village shall elect a Village Representative. Once elected by Members with respect to a Village, a Village Representative shall be entitled, and shall have the exclusive authority, to represent the Members that own Lots within such Village as to all matters that may be brought before the Membership of the Association pursuant to this Declaration, the Articles of Incorporation and Bylaws, including, but not limited to, the casting of all votes attributable to the Members owning the Lots within such Village. Each Village Representative shall have one vote for each Village represented by such Village Representative. The Village Representative shall have absolute discretion as to the exercise of the membership rights and votes attributable to the Members owning Lots within the Village represented by such Village Representative.

C. Village Representatives shall be elected by the Members owning Lots within a Village by a plurality of the votes of such Members under a straight voting method. Voting for a Village Representative shall occur at an annual meeting of the Members within such Village, which meeting shall be held prior to the annual meeting of Members of the Association. The conduct of any meeting of Members of a Village shall be consistent with and governed by the terms and provisions of meetings of the Members of the Association as established in the Bylaws. Village Representatives shall serve a term of one (1) year and until their successors shall have been elected and qualified or until their earlier resignation, removal from office or death. Village Representatives may be removed from office, with or without cause, upon the vote of a majority of the Members owning Lots within the Village for which such Village Representative was appointed, which vote shall occur at a Special Meeting of such Members held for the purpose of removing such Village Representative.

## **ARTICLE VII** **FUNCTIONS OF ASSOCIATION**

Section 1. Objectives, Purposes and Function. The Association has been created and established in order to advance the objects and purposes of this Declaration. The Association shall have exclusive jurisdiction over, and the sole responsibility for, (i) the administration and

enforcement of this Declaration, (ii) the establishment, levy, imposition, enforcement and collection of all Assessments for which provision is made in this Declaration, (iii) the administration, regulation, care, maintenance, repair, restoration, replacement, preservation and protection of the Common Property (except as specifically set forth to the contrary in Article V of this Declaration with respect to the Gated Community Subdivision Infrastructure), (iv) the payment of all Common Expenses, and (v) the promotion and advancement of the health, safety and general welfare of the Members of the Association; all as more particularly provided in this Declaration and in the Articles of Incorporation, Bylaws and rules and regulations of the Association.

Section 2. Duties and Powers, Generally. In addition to those duties and powers conferred by law and those specified and enumerated in its Articles of Incorporation and Bylaws, the Association shall also have such duties and powers as are, respectively, imposed and conferred upon it pursuant to this Declaration, including, without limitation, such duties and powers as may be reasonably necessary for, and incidental to, the accomplishment of the objects and purposes for which the Association has been created and established.

Section 3. Common Property. The Association, subject to the rights of the Owners set forth in this Declaration, as well as the obligations of the Declarant with respect to the Gated Community Subdivision Infrastructure set forth in Article V and the maintenance obligations of the Owners set forth in Article XI, Section 14, shall be exclusively responsible for the management, operation and control of the Common Property and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas) and shall keep the Common Property in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

Section 4. Personal Property and Real Property for Common Use. The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within Eagle Creek conveyed to it by the Declarant.

Section 5. Duties of the Association. The Association, acting by and through its Board, shall, in addition to those general and specific duties, responsibilities, obligations and powers elsewhere referenced in this Declaration or imposed upon it by law or specified in its Articles of Incorporation and Bylaws, have the following specific duties, responsibilities and obligations:

A. To pay all Common Expenses and any other expenses associated with the management and administration of the business and affairs of the Association.

B. To establish, make, levy, impose, enforce and collect all Assessments for which provision is made in this Declaration or which shall otherwise be necessary to provide and assure the availability of such funds as may be reasonably necessary to pay all Common Expenses or otherwise conduct the business and affairs of the Association.

C. To maintain and operate all Common Property, subject to the obligations of Declarant set forth in Article V and the maintenance obligations of the Owners set forth in Article XI, Section 14, and all public rights of way (to the extent permitted by any governmental authority) which are located within or in a reasonable proximity to the Property, the deterioration of which would adversely affect the appearance or the operation of the Common Property. The Association shall adopt standards of maintenance and operation required by this and other Sub-sections within this Section 5 which are consistent with the Community-Wide Standard. In all events, however, the Common Property shall be maintained and operated in compliance with any and all governmental permits, rules, regulations or requirements.

D. To maintain, repair or replace any of Eagle Creek, or any improvements, structures, facilities or systems located therein, as and to the extent provided in this Declaration and with respect to which the Association has been granted an easement for said maintenance.

E. To take any and all actions necessary to enforce all covenants, conditions and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in this Declaration or in the Articles of Incorporation or Bylaws.

F. To conduct the business of the Association, including but not limited to administrative services such as legal, accounting and financial, and communication services informing Members of activities, Notice of Meetings, and other important events. The Association shall have the right to enter into management agreements, including with companies affiliated with Declarant, in order to provide its services, and perform its functions.

G. To establish and operate the ARB at such time that the Association is delegated such purpose and authority by the Declarant.

H. To adopt, publish and enforce such rules and regulations as the Board deems necessary in connection with the fulfillment of the duties and powers of the Association arising pursuant to this Declaration, the Articles of Incorporation, the Bylaws or by any other applicable laws.

I. At the sole option and discretion of the Board, to conduct recreation, sport, craft, and cultural programs of interest to Members, their families, tenants and guests and charging admission fees for the operation thereof.

J. To construct improvements on Common Property as may be required to provide the services as authorized in this Article VII.

K. The Association may also provide exterior maintenance upon any Parcel which, in the opinion of the Board, requires such maintenance because said Parcel is being maintained in a manner inconsistent with the Community-Wide Standard. The Association shall notify the Owner of said Parcel in writing, specifying the nature of the condition to be corrected, and if the Owner has not corrected the condition within fifteen (15) days after date of said notice, the Association may correct such condition. Said maintenance shall include but not be limited to painting, repairs, replacement and maintenance of roofs, gutters, down spouts, exterior building surfaces, trees, shrubs, grass, and other landscape items, walks and other exterior improvements. For the purpose of performing the exterior maintenance authorized by this Section 5.K., the

Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Parcel or structures or improvements located therein at reasonable hours on any day except Saturday and Sunday; provided, however, the Association shall have the right of entry without notice, at any time and on any day, if necessary to correct an emergency situation. The cost of such maintenance shall be assessed against the Parcel upon which such maintenance is performed as a Special Assessment as provided in Article IX, Section 5.

L. To establish any use fees and promulgate rules and regulations respecting the use of Common Property and Association facilities by Members and persons other than Members.

M. To engage in any activities reasonably necessary to remove from the Common Property any pollutants, hazardous waste or toxic materials, and by Special Assessment, recover costs incurred from the Owner(s) causing or upon whose property such materials were located or generated.

N. Subject to the Board's sole discretion in determining the types of insurance coverages to purchase, and the amounts thereof, to provide adequate insurance protection on and for the Common Property and, consistent with their respective duties, responsibilities and liabilities, provide adequate insurance protection on and for the Association itself and its officers and directors, as well as for the members of the ARB established pursuant to this Declaration.

O. To act as the operating/responsible entity under, and to assume responsibility for compliance with, all permits or other governmental or quasi-governmental approvals assigned by Declarant to the Association, in Declarant's sole discretion, so long as such permits or approvals are, in the sole discretion of Declarant, useful or necessary for the common recreation, health, safety, welfare, benefit or convenience of Eagle Creek. Further in this regard, acceptance of such assignments from Declarant shall be mandatory upon the Association. Notwithstanding anything in the foregoing to the contrary, no Owner may transfer to the Association any such permit or approval, or any obligation or responsibility arising thereunder, obtained by such Owner in conjunction with its development of such Owner's Parcel ("Owner Permit"). Responsibility for compliance with the Owner Permits shall remain with the Owner.

Section 6. Powers of Association. The Association, acting by and through its Board, shall, in addition to those general and specific powers referred to herein or conferred upon it by law, and those powers specified in its Articles of Incorporation and Bylaws, have the following specific powers:

A. Except as may be limited by the terms of this Declaration and the Articles of Incorporation and Bylaws, to acquire, own, hold, control, administer, manage, operate, regulate, care for, maintain, repair, replace, restore, preserve, protect, insure, buy, sell, lease, transfer, convey, encumber or otherwise deal in or with real or personal property, (or any interest therein, including easements) which is, or upon its acquisition by the Association shall thereupon become, Common Property as defined in this Declaration, including the power to enter into any



leases or other arrangements with appropriate governmental agencies necessary for the use of sovereignty lands associated with any of the Common Property, and further including the power to direct, conduct, maintain or support activities within or upon the Property in order to limit or control access to the Property.

B. To establish, make, levy, impose, enforce and collect all Assessments and impose, foreclose and otherwise enforce all liens for Assessments for which provision is made in this Declaration in accordance with the terms and provisions of this Declaration and the Articles of Incorporation and Bylaws.

C. To establish, make, levy, impose, enforce and collect fines against any Owner for any violation of the covenants, conditions and restrictions set forth in this Declaration, or of the rules and regulations of the Association; provided, however, that except for a failure of an Owner to pay any Assessment when due and with respect to the rights of the Association in connection therewith, any fines imposed pursuant to this Declaration shall be made by the Association, or a committee duly appointed by the Association for that purpose, only after appropriate notice and hearing given and held in accordance with the Association Act.

D. To create, establish, maintain, and administer such capital expenditure reserves and other reserve funds or accounts as shall, in the discretion of the Board, be reasonably necessary to provide and assure the availability of funds necessary for the care, maintenance, repair, replacement, restoration, preservation, and protection of all Common Property, including all easements and facilities, and for such other purposes as the Board, in its reasonable discretion, shall deem necessary or appropriate.

E. To sue and be sued and to defend any suits brought against it.

F. Subject to the limitations specified in Section 8 of this Article VII, to borrow such money as may reasonably be required to discharge and perform the duties, responsibilities and obligations imposed upon the Association pursuant to this Declaration.

G. To employ such persons or to contract with such independent contractors or managing agents as shall be reasonably required in order for the Association to carry out, perform and discharge all or any part of its duties, obligations and responsibilities pursuant to this Declaration and the Articles of Incorporation; provided, however, that any such employment contract or contract with any independent contractor or managing agent for a term of more than one (1) year shall, by its express terms, be terminable (i) for cause at any time upon not more than thirty (30) days written notice by the Association and (ii) without cause at any time after one (1) year upon not more than sixty (60) days written notice by either party; and, provided further, that any such contract shall otherwise be subject to the provisions of Section 8 of this Article VII.

H. Subject to the rights of the County under applicable franchise agreement, to itself provide equipment, facilities and personnel or to contract with an independent contractor or independent contractors, for such public or quasi public services as may be deemed by the Association to be reasonably necessary or desirable for the common health, safety and general welfare of the residents, including, without limitation, internal security and protection services,

garbage and trash pickup and disposal services, cable television services and street lighting services.

I. To take such steps as may be necessary to enforce the provisions of this Declaration, including, without limitation the employment of counsel and the institution and prosecution of litigation to enforce the provisions of this Declaration including, without limitation, such litigation as may be necessary to collect Assessments and foreclose liens for which provisions are made in this Declaration.

Section 7. Limitation and Restrictions on Power of Association. In addition to such other restrictions or limitations on the powers of the Association as may be imposed by law, elsewhere in this Declaration or in the Articles of Incorporation or Bylaws, and without limiting the generality of any thereof, and for so long as Declarant owns any of the lands located within Eagle Creek, the Association shall have no authority to, and shall not, undertake any action which shall cause or result in any of the following, without the express, written consent of the Declarant which consent may be withheld in Declarant's sole discretion:

A. decrease the level of maintenance services of the Association performed by the initial Board as specified in the Articles of Incorporation;

B. make any Special Assessment against or upon the Declarant's property or upon the Declarant;

C. modify, amend or alter the Land Use Plan, any PSP/DP or any Plat;

D. terminate or cancel any contracts of the Association entered into while the Declarant controlled the Association;

E. terminate or waive any rights of the Association under this Declaration;

F. convey, lease, mortgage, alienate or pledge any easements or Common Property of the Association;

G. accept the conveyance, lease, mortgage, alienation or pledge of any real or personal property to the Association;

H. terminate or cancel any easements granted hereunder;

I. terminate or impair in any fashion any easements, powers or rights of the Declarant hereunder;

J. restrict the Declarant's right of use, access and enjoyment of any of the Property; or

K. cause the Association to default on any obligation of it under any contract or this Declaration, unless the Declarant consents in writing to the prohibited action. The Declarant's consent shall be exercised by its appointee on the Board or other person designated to so act by the Declarant.

L. modify, amend or change in any way any permits or other government or quasi-governmental approvals transferred or assigned to the Association by the Declarant, without the prior written approval of the Declarant.

Notwithstanding anything in the foregoing provisions of this Section 7 of this Article VII, any grant or reservation made by any document, and any contract with a term in excess of ten (10) years made by the Association before Turnover, that provides for the operation, maintenance or management of the Association or Common Property, must be fair and reasonable to the Association.

Section 8. Limitations and Restrictions on Power of Association to Act Without Member Approval. In addition to such other restrictions or limitations on the powers of the Association as may be imposed by law, this Declaration or in the Articles of Incorporation or Bylaws, and without limiting the generality of any thereof, the Association shall be prohibited from taking any of the following actions without the prior approval of two-thirds (2/3) of the Members of the Association present, in person or by proxy, at a special meeting of the Members of the Association held for the specific purpose of obtaining member approval of the following actions:

A. The entry into of employment contracts or other contracts for the delivery of services or materials to the Association having a term in excess of one (1) year, except in the case of prepaid insurance, casualty or liability contracts or policies for not more than three (3) years duration; provided that the applicable contract or policy provides for and permits early cancellation by the insured.

B. The borrowing of any funds secured by a pledge, assignment or encumbrance of the right and duty of the Association to exercise its power to establish, make levy, impose, enforce and collect any Assessments for which provision is made in this Declaration whereby as a result of such pledge, assignment or encumbrance such right and power of assessment may be exercised by a party other than the Association or whereby the Association shall become obligated to establish, levy, enforce and collect any Assessment or Assessments in a particular amount or within a particular time so as to effectively divert from the Association and its Board the right, duty and discretion to establish, make, levy, impose, enforce and collect Assessments in such amounts and within such time periods as the Board, in its discretion, shall deem to be necessary and reasonable. It is expressly provided, however, that the foregoing limitation and restriction upon the pledge, assignment or encumbrance of the assessment rights herein contained shall not preclude the Association from pledging or making an assignment of or otherwise encumbering any Assessment which is then payable to or which will thereafter, in the ordinary course of the Association's business, become payable to the Association provided that any such assignment, pledge or encumbrance, though then presently effective, shall allow and permit any such Assessments to continue to be paid to and used by the Association as set forth in this Declaration unless and until the Association shall default on the repayment of the debt which is secured by such pledge, assignment or encumbrance.

C. The sale, transfer or other disposition, whether or not for consideration, of any real property owned by the Association as Common Property; provided, however, in no event shall the Association be entitled or empowered to sell, convey or transfer any real property

constituting Common Property transferred and conveyed by Declarant to the Association without first receiving the prior written consent of Declarant. Further, upon the request of Declarant, the Association shall re-convey to Declarant, or convey directly to a Community Development District or MSTUs/MSBUs, any Common Property previously conveyed by Declarant to the Association, in the event such original conveyance was made in error or in the event Declarant seeks to cause or assist in the establishment, creation or operation of Community Development District or MSTUs/MSBUs, or in the event Declarant modifies the Land Use Plan in such manner as to require the incorporation of the affected Common Property into residential or commercial property use. Any such reconveyance shall automatically cause all of the easements created under Article VIII or any plat of the Property to be automatically void, released and vacated without the requirement of any written release from any easement holder. Notwithstanding anything to the contrary contained in the foregoing, the Association shall not be permitted to sell, transfer or otherwise dispose of any lands upon which is contained any part of the Surface Water Management System, or any facilities associated with the operation of such system, without the prior written consent of the SFWMD and the County.

Section 9. No Compensation to Directors or Officers. The payment of compensation to the elected directors or to the officers of the Association for services performed in the conduct of their duties is prohibited; provided, however, that nothing herein contained shall preclude the Association from reimbursing any such elected director or officer for reasonable expenses actually incurred and paid by any such elected director or officer in the conduct of the business and affairs of the Association; and provided, further, that nothing herein contained shall preclude the employment by the Association and payment of compensation to a manager or executive director of the Association who shall not be an elected director or officer of the Association.

## ARTICLE VIII EASEMENTS

Section 1. Access and Use Easements. Subject to the restrictions on use of Common Property by Owners of Commercial Parcels set forth in Section 11 of Article IV, Declarant grants to all Owners (and their tenants, guests, lessees, and invitees) as an appurtenance to the ownership of the Parcel held by such Owner, but subject to this Declaration, the Articles of Incorporation and Bylaws and the rules and regulations promulgated by the Association pursuant to this Declaration, a perpetual non-exclusive easement for ingress and egress over, across and through, and for use and enjoyment of, all Common Property; such use and enjoyment to be shared in common with the other Owners, their tenants, guests, invitees as well as the guests, lessees and invitees of the Declarant. Notwithstanding anything in the foregoing to the contrary, the above referenced easement, as same relates to any Limited Common Property, shall be deemed granted to only those Owners to whom the use and enjoyment of such Limited Common Property has been dedicated and reserved by Declarant. Provided, further, with respect to all Common Property, the Declarant reserves the right, but not the obligation, to maintain and use all rights of way associated therewith, and to maintain and place Declarant's signs thereon.

There is further hereby created, declared, granted and reserved for the benefit of each Owner, as an appurtenance to the ownership of the Parcel held by such Owner, but subject to this Declaration, the Articles of Incorporation and Bylaws and the rules and regulations promulgated by the Association pursuant to this Declaration, including specifically, but not limited to, the

restrictions on use of Common Property by Owners of Commercial Parcels and their tenants, guests or other invitees set forth in Article IV, Section 11 of this Declaration, and further benefiting all private entities and public agencies providing pick up and delivery, utility, fire protection, law enforcement and other governmental or quasi-governmental services, including, but not limited to, the United States Postal Service, a non-exclusive easement for pedestrian and vehicular ingress, egress and passage over and upon the Common Streets and Roads. Such easement for ingress, egress and passage shall be subject to and limited by such reasonable regulations and security controls, including but not limited to temporary stoppage and interruption and security gates for identification purposes, as may from time to time be established and promulgated by the Association.

Section 2. Utility Easements. The Declarant reserves to itself (and its successors or assigns) for so long as the Declarant owns any lands located within Eagle Creek, and the Association thereafter, the right to grant easements to any private company, public or private utility or governmental authority providing utility and other services within Eagle Creek or the Common Property upon, over, under and across the Property. Said easements shall only be given for the purpose of maintaining, installing, repairing, altering and operating sewer lines, irrigation lines, water lines, waterworks, sewer works, force mains, lift stations, water mains, sewer mains, water distribution systems, sewage disposal systems, effluent disposal lines and systems, pipes, wires, fiber optics lines, power lines, telephone service, gas lines, syphons, valves, gates, pipelines, cable television service, alarm systems and all machinery and apparatus appurtenant thereto, to all of the foregoing as may be necessary or desirable for the installation and maintenance of utilities and providing services to Owners, Eagle Creek, the Property or Common Property, all pursuant to and in compliance with, all applicable permits, rules and regulations of any applicable governmental authorities. All such easements to be of a size, width and location as Declarant (or the Association, as appropriate), in its discretion, deems best but selected in a location so as to not unreasonably interfere with the use of any improvements which are now, or will be, located upon the Property.

Section 3. Declarant Easements. The Declarant hereby reserves to itself, its successors and assigns, and to such other persons as Declarant may from time to time designate in writing, an easement, privilege and right in and to, over, under, on and across the Common Property for ingress and egress as required by its officers, directors, employees, agents, independent contractors, invitees and designees, including, but not limited to, as necessary for Declarant to carry out and discharge its duties, obligations and responsibilities under and pursuant to this Declaration. Declarant reserves the right to impose further restrictions and to grant or delegate additional easements and rights-of-way on any of the Property owned by Declarant. The easements granted by Declarant shall not structurally weaken any improvements or unreasonably interfere with enjoyment of the Property. Declarant reserves for itself, its successors and assigns, an exclusive easement for the installation and maintenance of security and television cables and wire within the rights-of-way, Common Property, and easement areas referred to hereinabove.

Section 4. Service Easements. Declarant hereby reserves to itself (and its successors or assigns) for so long as the Declarant owns any lands located within the Property, and the Association thereafter, the right to grant to delivery, pickup and fire protection services, police and other authorities of the law, United States mail carrier, representatives of electrical,

telephone, cable television and other utilities authorized by the Declarant, its successors or assigns to service the Property, and to such other persons as the Declarant from time to time may designate, nonexclusive, perpetual easement rights over and across the Common Property for the purpose of performing their authorized services and investigations.

Section 5. Right of Entry. The Association shall have the right, but not the obligation, to enter onto any Property for emergency, security, and safety, which right may be exercised by the Board, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter onto any Property to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board.

Section 6. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, as between all Parcels and such portion or portions of the Common Property adjacent thereto due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an Owner or the Association.

Section 7. Stormwater Easements. There is hereby created, declared and reserved for the benefit of Declarant, the County, the Association and all Owners a non-exclusive easement for stormwater management, collection, retention, detention and drainage under, over, upon and within all portions of the Property included within the Surface Water Management System, including, but not limited to, all drainage easements, ponds and tracts shown on any plat of the Property, together with an easement and license in favor of the Declarant, the County, the SFWMD and the Association only to enter upon such areas, and as necessary other portions of the Property adjacent thereto, for the purposes of constructing, installing, inspecting, maintaining, repairing and replacing any and all stormwater drainage systems, improvements and facilities including, but not necessarily limited to, berms, swales and retaining walls, from time to time located therein or thereon consistent with the plans for the Surface Water Management System. Additionally, Declarant, for the benefit of itself, the County, the SFWMD, the Association and all Owners, hereby reserves easements over any and all other portions of the Property as may be reasonably required from time to time in order to provide stormwater drainage to all or any portions of Eagle Creek; provided, however, that any such additional drainage easements shall not unreasonably interfere with the use and enjoyment by any Owners of the particular Property. The foregoing easements are sometimes hereinafter referred to as the "Stormwater Easements."

The Declarant intends to construct berms and drainage swales within portions of the Stormwater Easements for the purpose of managing and containing the flow of surface water, if any. Each Owner, including builders, shall be responsible for the maintenance, operation and repair of the berms and drainage swales on their respective Parcel. Likewise, the Association shall be responsible for the maintenance, operation and repair of the berms and drainage swales

that are not located on Parcels (e.g., within the Common Property). Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the berms and drainage swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the SFWMD. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the berms and drainage swales is prohibited. No alteration of the berms and drainage swales shall be authorized and any damage to any berms and drainage swales, whether caused by natural or human-induced phenomena, shall be repaired and the berms and drainage swales returned to their former condition as soon as possible by the party (i.e. Owner or the Association) having responsibility for the maintenance of the damaged berms and drainage swales.

Section 8. Wall, Entrance Feature and Landscape Easements. There is hereby created, declared, granted and reserved for the benefit of Declarant and the Association an easement over and upon all wall, entrance feature and landscape easement areas shown on any plat of the Property ("Wall and Landscape Easements") together with an easement and license to enter upon such Wall and Landscape Easement areas for the purposes of erecting, constructing, installing, inspecting, maintaining, repairing and replacing any and all entrance features, screening walls or fences, and the installation and irrigation of any landscaping therein, which may be required by the County and/or deemed to be necessary or desirable by Declarant or the Association.

Section 9. Planting and Screening Easements. There is hereby created, declared, granted and reserved for the benefit of Declarant and the Association an easement for planting and screening purposes ("Planting and Screening Easements") over and upon all planting and screening easement areas, entry ways, medians and landscape buffers shown on any plat of the Property, if any, or hereafter declared by Declarant, together with an easement and license to enter upon such areas for the purposes of installing, maintaining, inspecting, repairing and replacing any and all landscaping, including trees, grasses, shrubs, bushes, ground covers and other plant materials and irrigation systems of any kind, whether the same shall be required by the County and/or deemed necessary or desirable by Declarant or the Association.

Section 10. Construction and Marketing Easements. There is hereby created, declared, granted and reserved for the benefit of Declarant together with the right to grant, assign and transfer the same to Declarant's sales agents and sales representatives as well as to builders or building contractors approved by Declarant for the construction of residences within the Property, an easement for construction activities upon the Property and an easement for marketing activities and signs on the Property and for the maintenance on the Property from time to time of model centers in which and from which Declarant and its authorized sales agents and sales representatives and approved builders and building contractors may engage in marketing and information activities on a temporary basis during the period of the development of and construction within the Property ("Construction and Marketing Easements"), provided, however, that such marketing activity conducted within Parcels designated for single family residential development purposes pursuant to the Land Use Plan shall be conducted from and within buildings constructed as single family residential dwellings which are temporarily used for such activities and which are thereafter to be sold, used and occupied as single family residential dwellings. The location of such model centers may be changed from time to time by Declarant, in its sole and absolute discretion.

Section 11. Association Easements. There is hereby created, declared and granted to the Association, such non-exclusive easements over and upon all or any portion of the Property, as may be reasonably necessary to permit the Association to carry out and discharge its duties, obligations and responsibilities under and pursuant to this Declaration and the Articles of Incorporation, Bylaws and rules and regulations of the Association ("Association Easements"). Such Association Easements shall be in addition to the Stormwater Easements hereinabove granted to the Association pursuant to Section 7 of this Article VIII.

Section 12. Sidewalk/Pedestrian Trail and Recreational Trail Easements. Subject to the restrictions on use of Common Property by Owners of Commercial Parcels set forth in Section 11 of Article IV, there is hereby created, declared and reserved for the benefit of the Declarant, the Association and all Owners an easement over, within and upon all sidewalk and/or pedestrian trail and/or recreational trail areas as shown on any plat of the Property ("Pedestrian Easements"), for the purposes of constructing, installing, maintaining, repairing and replacing from time to time the sidewalk and trail system for the Property. All such benefitted parties shall have a non-exclusive easement for pedestrian ingress, egress and passage over and upon any sidewalks and trails from time to time located, constructed, installed and maintained within said Pedestrian Easement areas.

Section 13. Conservation Easements. Declarant reserves the right to grant Conservation Easements to qualified grantees over and across Common Property, lakes, open space, areas dedicated to the use of the general public, or all or any portion of the Surface Water Management System or any other portion of the Property as required by the SFWMD in connection with any permits or other approvals associated with the Surface Water Management System. Upon establishment of any such Conservation Easements, the related Conservation Areas subjected to such easements shall be subject to the restrictions set forth in this Article VIII, Section 13. The Conservation Areas, or the Association's interest therein, shall be Common Property and the Conservation Areas shall be the perpetual responsibility of the Association and may in no way be altered from their natural state, except as specifically provided in the Conservation Easements.

Section 14. Golf Related Easements. There is hereby created, declared and reserved a non-exclusive easement for the benefit of users of the golf course within Eagle Creek over, across and upon the Common Property and exterior portions of any Lot adjacent to the golf course, the purpose of which is to permit every act necessary, incidental, or appropriate to the playing of golf. These acts include, without limitation, the recovery by golfers of errant golf balls, the flight and the landing of errant golf balls over and upon such portions of the Property, the use of necessary and usual golf carts and maintenance equipment upon the golf course, the usual and common noises and other disturbances created by maintenance of the course and the playing of the game of golf, including tournaments, together with all other common and usual occurrences normally associated with the existence and operation of a golf course. The foregoing permitted acts shall not include or permit in any manner the entry or crossing of any golf carts on Lots or Common Property, except upon such areas of the Common Property that are specifically designated by Declarant or the Association for use of golf carts. The existence of this easement shall not relieve users of the golf course of liability for damage caused by errant golf balls or other objects or caused by or in connection with their entry upon the Lot or Common Property pursuant to this easement.



Section 15. Future Easements. There is hereby reserved to Declarant and its successors and assigns, together with the right to grant and transfer the same, the right, power and privilege to, at any time hereafter, grant to itself, the Association, the County or any other parties such other further and additional easements as may be reasonably necessary or desirable, in the sole opinion and within the sole discretion of Declarant, subject to the reasonable approval of the County, for the future orderly development of the Property in accordance with the objects and purposes set forth in this Declaration. Any such easement(s) shall be recorded in the Public Records of the County. It is expressly provided, however, that no such further or additional easements shall be granted or created over and upon any Parcel if any such easement shall unreasonably interfere with an Owner's plans to use or develop the Parcel. The easements contemplated by this Section 15 may include, without limitation, such easements as may be required for utility, drainage, road right-of-way or other purposes reasonably related to the orderly development of the Property in accordance with the objects and purposes specified in this Declaration. Such further or additional easements may be hereafter created, granted, or reserved by Declarant without the necessity for the consent or joinder of any other persons including, but not necessarily limited to, the Owner of, or the person holding the mortgage on, the particular portion of the Property over which any such further or additional easement is granted or required.

Section 16. Extent of Easements. The rights and easements of enjoyment created in this Article VIII shall be subject to the following:

A. The right of the Declarant or the Association, in accordance with the Articles of Incorporation and Bylaws, to borrow money from any lender for the purpose of improving and/or maintaining the Common Property and providing services authorized herein and, in aid thereof, to mortgage said Property.

B. The right of the Association to suspend the rights and easements of enjoyment of any Member for any period during which any Assessment remains unpaid, and for any period, not to exceed sixty (60) days, for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any Assessment or breach of any rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the Assessment.

C. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility that may be situated on or in the Common Property.

D. The Board shall have the power to place (and remove after notice) any reasonable restrictions upon any Common Streets and Roads including, but not limited to, the maximum and minimum speeds of vehicles using said roads, all other necessary traffic and parking regulations, and the maximum noise levels of vehicles using said roads; provided, however, that no such restrictions may be inconsistent with the terms or provisions of any agreement between the Association and the County Sheriff pertaining to the enforcement of traffic laws within the Property. The fact that such restrictions on the use of such roads shall be more restrictive than the laws of any state or local government having jurisdiction over the Property shall not make such restrictions unreasonable.

E. The right of the Association to give, dedicate, mortgage or sell all or any part of the Common Property (including leasehold interest therein) to any public agency, authority, or utility or private concern for such purposes and subject to such conditions as may be determined by the Association provided that no such gift or sale or determination for such purposes or conditions shall be effective unless the same shall be authorized by one hundred percent (100%) of the votes of Members of the Association, and unless written notice of the meeting and of the proposed agreement and action thereunder is sent at least thirty (30) days prior to such meeting to every Voting Member. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice-President and Secretary or Assistant Secretary of the Association, and such certificate shall be annexed to any instrument or dedication or transfer affecting the Common Property, prior to the recording thereof. Such certificate shall be conclusive evidence of authorization by the Members.

## ARTICLE IX ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations of Assessments. Each Owner of any Parcel shall, by acceptance of a deed therefor or other form of conveyance thereof, regardless of whether it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay the Association: (1) Annual Assessments and (2) Special Assessments, all fixed, established and collected from time to time as hereinafter provided. The Assessments together with such interest thereon and costs of collection provided herein shall be a charge and continuing lien as provided herein on the real property and improvements of the Owner against whom each such Assessment is made. Assessments, together with such interest thereon and cost of collection, shall also be the personal obligation of the person who was the Owner of such real property at the time when the Assessment first became due and payable. In the case of co-ownership of a Parcel, all of such co-owners shall be jointly and severally liable for the entire amount of the Assessment.

The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Property or by the abandonment of the property against which the Assessment was made. No diminution or abatement of Assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for the inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Notwithstanding anything to the contrary in the foregoing provisions of this Article IX, it is the intent and shall be the effect of this Declaration that Commercial Parcels, and the Owners thereof, shall be subject to Assessments under this Declaration only as and to the extent specifically provided in the Supplement pursuant to which a Commercial Parcel is subjected to this Declaration, it being contemplated, but not required, that Owners of Commercial Parcels only be subject to Assessments for: (i) the Common Streets and Roads, (ii) the Surface Water Management System and (iii) any other portions of the Common Property the use and benefit of

which is specifically made available to the Commercial Parcel, and the Owner thereof and its tenants, guests or other invitees, pursuant to the Supplement pursuant to which such Commercial Parcel is subjected to this Declaration.

Notwithstanding anything to the contrary in the provisions of this Article IX, Annual Assessments and Special Assessments made with respect to Limited Common Property shall be levied only against the Parcels and Owners designated by Declarant as having the right to utilize and realize the benefits of the Limited Common Property. Any budget prepared by the Association for capital expenditures and/or other Common Expenses shall include a separate itemization of such expenditures that pertain to Limited Common Property, and the Association may establish reserves for expenses specifically associated with such Limited Common Property.

Section 2. Purpose of Annual Assessments. The Annual Assessments levied by the Association may be used for the acquisition, improvement, maintenance, enhancement and operation of the Common Property, including, but not limited to, Gated Community Subdivision Infrastructure and Related Subdivision Infrastructure, and to provide services and perform functions which the Association is authorized or required to perform pursuant to this Declaration, including, but not limited to, the payment of taxes and insurance, construction, repair or replacement of improvements, payment of the costs to acquire labor, equipment, materials, management and supervision necessary to carry out its authorized functions, and for the payment of principal, interest and any other charges connected with loans made to or assumed by the Association for the purpose of enabling the Association to perform its authorized or required functions.

Section 3. Capital Budget and Reserve Fund Contribution. The Board shall annually prepare a capital budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost to be incurred by the Association, and shall establish a reserve fund for such anticipated expenditures. The Board shall set the required reserve fund, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing of Annual Assessments over the period of the budget. The reserve fund required, if any, shall be fixed by the Board and included within and distributed with the budget and Annual Assessment. Any reserve fund established by the Board shall be held in an interest-bearing account or investments.

Section 4. Timing of and Budgeting for Annual Assessments and Allocation of Assessments. It shall be the duty of the Board, at least once each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with the capital budget separately prepared in accordance with Section 3 hereof. The budget shall also include separate line items estimating the Common Expenses allocable to Limited Common Property in accordance with Article IV, Section 10 of this Declaration.

The Annual Assessments to be levied for the coming year shall initially be allocated to each Village subject to Assessment by dividing the budgeted Common Expenses by the sum of all Villages subject to Assessment. The resulting figure shall be the "Assessment per Village." Except as set forth in Section 6 below with respect to Declarant, the Assessment per Village shall

(i) for each Village that is not subdivided into Lots, be assessed against the Village, or (ii) for each Village that has been subdivided into Lots, be allocated between all Lots within such Village (a) with respect to Residential Villages, by dividing the Assessment per Village by the sum of all Lots within such Village, with the resulting figure being the amount that is assessed against each Lot within such Village and (b) with respect to Commercial Villages, assessed against the Lots within such Commercial Village based upon written agreement between the Owners of the Lots within such Commercial Village, or, absent such agreement, assessed against such Lots on a pro rata basis based upon the number of Lots or acreage thereof, or such other method as reasonably determined by the Association in order to most fairly allocate such Assessment per Village between the Lots within such Commercial Village, in the reasonable discretion of the Association. The Owners of Lots within a Commercial Village shall provide to the Association a copy of the written agreement between such Owners pertaining to the allocation of Assessments per Village in accordance with the foregoing provisions of this Section 4, failing which it shall conclusively be deemed that no such agreement exists.

Notwithstanding anything in the foregoing to the contrary, the Annual Assessments for Common Expenses attributable to Limited Common Property shall be computed by dividing such budgeted Common Expenses by the sum of all Villages responsible for such Common Expenses and the resulting figure shall be the "Limited Common Expense Assessment per Village" and shall be assessed against, and paid by, only the Members owning Lots within such Villages, and the aforescribed Limited Common Expenses Assessment per Village shall be allocated among the Lots within such Villages in the same manner as the Assessment per Village described above.

The Board shall cause a copy of the Common Expense budget and notice of the amount of the Annual Assessment to be levied against each Parcel for the following year to be delivered to each Owner at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Voting Members (and/or their representatives) by the vote of Voting Members representing at least a majority of each class of Members entitled to vote. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Voting Members as provided for special meetings in the Bylaws.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

At the discretion of the Board, the Annual Assessments for any year may be paid by Owners in quarterly installments due and payable by the first (1st) day of January, April, July and October of each year. Absent any such determination by the Board permitting payment in quarterly installments, the Annual Assessment for any year shall be due and payable by January 1 of such year. Any Annual Assessment not paid by January 15, if payable in one lump sum, or the fifteenth (15th) day of January, April, July or October if paid quarterly, shall be considered delinquent.

In the event that the Board shall determine during any calendar year that the Annual Assessment established for such calendar year is or will become inadequate or insufficient to meet all Common Expenses for such calendar year, for whatever reason, the Association shall be entitled to immediately determine the approximate amount of such deficiency or inadequacy, issue a supplemental estimate of Common Expenses to all Owners and, within thirty (30) days thereafter, establish, make, levy, impose, enforce and collect a supplemental or revised Annual Assessment for such calendar year.

Section 5. Special Assessments. The Association may levy, from time to time, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, or the unexpected repair or replacement of any capital improvement to or upon the Common Property, including, but not limited to, Gated Community Subdivision Infrastructure and Related Subdivision Infrastructure, or the cost of the initial purchase or any subsequent unexpected repair or replacement of any equipment or personal property purchased, repaired or replaced by the Association in furtherance of the discharge of its duties and obligations pursuant to this Declaration. The obligation to pay Special Assessments shall be computed on the same basis as for Annual Assessments; provided, however, that if the Special Assessment is made with respect to Limited Common Property, then the Owners designated by Declarant to utilize and realize the benefits of the Limited Common Property shall be responsible for, and shall be assessed, the Special Assessment. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

The Association may also levy a Special Assessment against any Owner to reimburse the Association for costs incurred pursuant to Article VII, Section 5 in bringing an Owner or its Parcel into compliance with the provisions of this Declaration, the Articles of Incorporation, the Bylaws, or the Association rules and regulations, which Special Assessment may be levied upon the vote of the Board after notice to the Owner and an opportunity for a hearing.

Section 6. Assessment of Declarant. Notwithstanding any provision of this Declaration, the Articles of Incorporation or Bylaws to the contrary, Declarant may, at its sole option, for as long as there is Class C membership in the Association, in lieu of paying any Assessment imposed on any Parcel owned by the Declarant, pay only the deficit, if any, between the total amount of the Assessments and the actual costs incurred by the Association to operate the Association during the fiscal year. This obligation may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these. The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses. Notwithstanding anything in the foregoing to the contrary, Declarant shall have no responsibility for operating deficits of the Association except to the extent that Declarant elects to pay such deficits in lieu of any Assessment as described above. Upon termination of the Class C membership in the Association, as hereinabove provided, the Assessments against any Parcel owned by Declarant shall be assessed against Declarant as a Class A Member or Class B Member, as appropriate, consistent with Declarant's ownership of such Parcel. After the Class C membership has been terminated, Declarant shall have no responsibility for operating deficits of the Association.

Section 7. Gated Community Subdivision Infrastructure Assessments and Related Accounts. In addition to the assessments, budgeting and reserve funds described in the preceding Sections of this Article IX, and notwithstanding anything to the contrary contained therein, the Association must create, levy assessments for, deposit monies into, retain in perpetuity and replenish from time to time the Gated Community Required Accounts, and comply with the assessment, reporting and other requirements, as and to the extent provided in Sections 8, 9, 10, 11, 12 and 13 of this Article IX.

Section 8. Routine Infrastructure Maintenance Account. The Association must deposit each year into the Routine Infrastructure Maintenance Account an amount of money reasonably determined to be sufficient to perform all scheduled maintenance and unscheduled repair of Gated Community Subdivision Infrastructure and Related Subdivision Infrastructure during the subsequent year. From and after such time as the Association has received the engineer's report required pursuant to Article V, Section 5 of this Declaration, the amount deposited, when added to investment earnings, must be no less than the amounts recommended in said report. The reserve amounts for the Routine Infrastructure Maintenance Account must be approved by Orange County (Public Works Department).

Monies on deposit in the Routine Infrastructure Maintenance Account, including any investment earnings, may be used by the Association, or by the Declarant with the written consent of the Board, only for scheduled maintenance and for unscheduled repair of the Gated Community Subdivision Infrastructure and Related Subdivision Infrastructure; provided, however, that monies on deposit in the Routine Infrastructure Maintenance Account may only be used for maintenance and repair of Related Subdivision Infrastructure to the extent that such monies are not then needed to pay for scheduled maintenance or unscheduled repair of the Gated Community Subdivision Infrastructure so that payment for scheduled maintenance and for unscheduled repair of the Gated Community Subdivision Infrastructure shall always take priority over payment for maintenance and repair of Related Subdivision Infrastructure.

Section 9. Capital Repair/Streets Account. The Association must deposit each year into the Capital Repair/Streets Account an amount sufficient for the Common Streets and Roads to be resurfaced and, if due to the condition of the Common Streets and Roads resurfacing alone is insufficient, reconstructed no less frequently than every 12 years, and the amount must be estimated by the Declarant and approved by the County prior to issuance of a certificate of completion for the Common Streets and Roads. Deposits to the Capital Repair/Streets Account must begin in the year in which the County issues its certificate of completion for the Common Streets and Roads and must be completed no later than the year of the 12<sup>th</sup> anniversary of the issuance of the certificate. The amount deposited each year by the Association must be no less than one-twelfth of the estimate approved by the County. However, after Turnover, the schedule of deposits may be altered such that one or more annual deposits is less than one-twelfth of the estimate approved by the County, but only if a simple majority or more of all Owners, by consent in writing or by voting at a meeting called in accordance with the Bylaws of the Association, approve the altered schedule. If the Owners approve a different schedule of deposits, the revised schedule must result in the aggregate amount of deposits during the 12-year period being equal to or in excess of the estimate approved by the County. At the end of each 12-year period, the Association shall revise and update the estimated cost of resurfacing and/or reconstructing the Common Streets and Roads, as required herein, at the end of the next 12-year period, taking into

consideration actual costs incurred and expected increases in road construction costs, and shall adjust the amount of its annual deposits to the Capital Repair/Streets Account accordingly. If for any reason expenditures are made from the Capital Repair/Streets Account prior to the end of the 12-year period, the amount of deposits to the Capital Repair/Streets Account in the remaining years shall be adjusted so as to ensure that the Capital Repair/Streets Account contains an amount sufficient at the end of the 12-year period to pay the costs of all expected repair and/or reconstruction and resurfacing requirements.

Monies on deposit in the Capital Repair/Streets Account, including any investment earnings, may be used by the Association only for resurfacing and related reconstruction of the Common Streets and Roads, as and to the extent required in the preceding provisions of this Section 9. The monies on deposit in the Capital Repair/Streets Account may not be expended earlier than the 12th anniversary of the issuance of the certificate of completion without the approval of no less than a simple majority of the Owners (excluding Declarant), which approval may consist of written consent or voting consent at a meeting called in accordance with the Bylaws of the Association, and such approvals by the Owners will be valid only if obtained after Transfer of Control. Under no circumstances may the monies in the Capital Repair/Streets Account be expended before Transfer of Control.

Section 10. Capital-Repair/Drainage Pond Account. The Association must deposit each year into the Capital Repair/Drainage Pond Account an amount sufficient for the stormwater detention/retention areas in the Surface Water Management System to be restored and repaired no less frequently than once every 10 years, and the amount must be estimated by the Declarant and approved by the County prior to the issuance of a certificate of completion for the drainage system included within the Gated Community Subdivision Infrastructure. Deposits to the Capital Repair/Drainage Pond Account must begin in the year of which the County issues its certificate of completion for the Surface Water Management System and must be completed no later than the year of the 10<sup>th</sup> anniversary of the issuance of the certificate. The amount deposited each year by the Association must be no less than one-tenth of the estimate approved by the County. However, after Turnover, the schedule of deposits may be altered such that one or more annual deposits is less than one-tenth of the estimate, but only if a simple majority or more of all Owners, by consent in writing or by voting at a meeting called in accordance with the Bylaws of the Association, approve the altered schedule. If the Owners approve a different schedule of deposits, the revised schedule must result in the aggregate amount of deposits during the ten-year period being equal to or in excess of the estimate approved by the County. At the end of each 10-year period, the Association shall revise and update the estimated cost of restoring and repairing the stormwater detention/retention areas at the end of the next 10-year period, taking into consideration actual costs incurred and expected increases in drainage-system construction costs, and shall adjust the amount of its annual deposits to the Capital Repair/Drainage Pond Account accordingly. If for any reason expenditures are made from the Capital Repair/Drainage Pond Account prior to the end of the 10-year period, the amount of deposits to the Capital Repair/Drainage Pond Account in the remaining years will be adjusted so as to ensure that the Capital Repair/Drainage Pond Account contains an amount sufficient at the end of the 10-year period to pay the costs of all expected restoration and repair requirements.

Monies on deposit in the Capital Repair/Drainage Pond Account, including any investment earnings, may be used by the Association only for major repair and reconstruction of

the stormwater detention/retention areas of the Surface Water Management System, as and to the extent required in the preceding provisions of this Section 10. The reconstruction and repair of such detention/retention areas will include, but not be limited to, dredging and sediment removal. The monies on deposit in the Capital Repair/Drainage Pond Account may not be expended earlier than the 10<sup>th</sup> anniversary of the issuance of the certificate of completion without the approval of no less than a simple majority of the Owners (excluding Declarant), which approval may consist of written consent or voting consent at a meeting called in accordance with the Bylaws of the Association, and such approval by the Owners will be valid only if obtained after Transfer of Control. Under no circumstances may monies in the Capital Repair/Drainage Pond Account be expended before Transfer of Control.

Section 11. Capital Repair/Other Infrastructure Account. The Association must deposit each year into the Capital Repair/Other Infrastructure Account an amount sufficient for (i) those portions of the Gated Community Subdivision Infrastructure other than the Common Streets and Roads and stormwater retention/detention areas and (ii) the Related Subdivision Infrastructure, to be reconstructed, and/or repaired, no less frequently than once every 50 years, and the amount must be estimated by the Declarant and approved by the County prior to issuance of a certificate of completion for such improvements. Deposits to the Capital Repair/Other Infrastructure Account must begin in the year in which the County issues its certificate of completion for such improvements and must be completed no later than the 50<sup>th</sup> anniversary of the issuance of the certificate. The amount deposited each year by the Association must be no less than one-fiftieth of the estimate approved by the County. However, after Turnover, the schedule of deposits may be altered such that one or more annual deposits is less than one-fiftieth of the estimate, but only if a simple majority or more of all Owners, by consent in writing or by voting at a meeting called in accordance with the Bylaws of the Association, approve the altered schedule. If the Owners approve a different schedule of deposits, the revised schedule must result in the aggregate amount of deposits during the 50-year period being equal to or in excess of the estimate approved by the County. At the end of each 50-year period, the Association shall revise and update the estimate of the cost of reconstructing and/or repairing the aforescribed improvements, taking into consideration actual costs incurred and expected increases in reconstruction and repair costs, and shall adjust the amount of its annual deposits to the Capital Repair/Other Infrastructure Account accordingly. If for any reason expenditures are made from the Capital Repair/Other Infrastructure Account prior to the end of the 50-year period, the amount of deposits to the Capital Repair/Other Infrastructure Account in the remaining years will be adjusted in a manner to ensure that the Capital Repair/Other Infrastructure Account contains an amount sufficient at the end of the 50-year period to pay the cost of all expected reconstruction and/or repair requirements.

Monies on deposit in the Capital Repair/Other Infrastructure Account, including any investment earnings, may be used by the Association only for major repair, reconstruction, resurfacing and replacement of improvements as and to the extent required in the preceding provisions of this Section 11; provided, however, that monies on deposit in the Capital Repair/Other Infrastructure Account must first be used for the repair, reconstruction, resurfacing and replacement of those portions of the Gated Community Subdivision Infrastructure consisting of stormwater conveyance systems, sidewalks, curbing and bike paths, prior to use of such monies for the repair, reconstruction, resurfacing or replacement of the Related Subdivision Infrastructure, so that the repair, reconstruction, resurfacing and replacement of such stormwater



conveyance systems, sidewalks, curbing and bike paths shall take priority over the repair, reconstruction, resurfacing and replacement of the Related Subdivision Infrastructure.

Section 12. Required Assessments. The obligation to collect and pay Assessments to fund the accounts set forth in Sections 8, 9, 10 and 11 of this Article IX shall, unless an earlier date is required in such Sections, commence on the later of (i) the date on which the County issues its certificate of completion for the Gated Community Subdivision Infrastructure and Related Subdivision Infrastructure, or (ii) the date on which the Plat of the Property in which such Gated Community Subdivision Infrastructure is located is recorded in the Public Records of Orange County, Florida. The Association shall impose and collect such Assessments against the Parcels, including Parcels owned or controlled by the Declarant and by any Residential Builder, without exception, and Assessments per Village for such Assessments shall be determined and collected pursuant to the procedures for Annual Assessments set forth in Section 4 of this Article IX. The Assessments must be uniform and equitable and must be imposed and collected in amounts sufficient, when added to investment earnings and other available revenues of the Association, if any, to make all required deposits to each of the Gated Community Required Accounts.

Notwithstanding the foregoing, if in the opinion of the County Engineer the Gated Community Subdivision Infrastructure has substantially deteriorated at the time a Plat is approved, the County may require an additional payment of Assessments by the Declarant to address the loss of useful life of the deteriorated Gated Community Subdivision Infrastructure.

Section 13. Financial Reports and Other Requirements. Each year the Association shall cause a financial report of the Gated Community Required Accounts to be performed and prepared, and a copy of the report shall be submitted to each Owner within the time frame required under the "Financial Reporting" requirements of the Association Act, Chapter 720 of the Florida Statutes. At a minimum, the report shall confirm the existence of each of the Gated Community Required Accounts and report the amounts of deposits into and expenditures from the accounts during the period year, along with an itemization of the expenditures from the accounts. Finally, the financial report shall disclose whether any of the Gated Community Required Accounts has on deposit less than the amount required by this Declaration.

Section 14. Duties of the Board. The Board shall prepare a roster of Owners and Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Section 15. Working Capital. For Parcels sold after the date this Declaration is recorded in the Public Records of Orange County, Florida, upon acquisition of record title to a Parcel by the first purchaser thereof other than (i) the Declarant and (ii) an Owner who purchases solely for the purpose of constructing a building or dwelling thereon for resale, and in addition to any Assessment that may be due with respect to such Parcels for such year, a contribution shall be made by or on behalf of such first purchaser to the working capital of the Association in an amount equal to the greater of: (i) One Hundred Fifty and No/100 Dollars (\$150.00), or (ii) two-twelfths (2/12) of the amount of the Annual Assessment per Parcel for the calendar year in which such acquisition occurs, which contribution is not refundable, shall be in addition to, and not in lieu of, the Annual Assessment levied on the Lot and shall not be considered an advance

payment of any portion of the Annual Assessment. This amount shall be paid to the Association and shall be used for operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the Bylaws.

Section 16. Effect of Non-Payment of Assessment; Personal Obligation of the Owner; Lien; Remedies of Association. If any Assessment is not paid on the date due, then such Assessment shall become delinquent and the entire Assessment, including future annual installments of such Assessment, shall, together with interest thereon and cost of collection thereof as hereinafter provided, become due and payable and be a continuing lien on the Parcel that is the subject of such Assessment which shall bind such property in the hands of the then Owner, the Owner's heirs, devisees, personal representatives, successors and assigns. The obligation of the Owner to pay such Assessment, however, shall remain a personal obligation, notwithstanding any disposition by such Owner of the Parcel that is the subject of such Assessment. The Association may record a notice of lien for delinquent Assessments in the Public Records and foreclose the lien in the same manner as a mortgage. Upon recording, the lien shall secure not only the amount of delinquency stated therein, but also all unpaid Assessments thereafter until satisfied of record.

If the Assessment is not paid when due, the Assessment shall bear interest from the date of delinquency at the highest rate allowed by Florida law, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Parcel, and there shall be added to the amount of such Assessment the costs incurred by the Association in connection with such action, and in the event a judgment is obtained, such judgment shall include interest on the Assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

The Association, acting on behalf of the Owners, shall have the power to bid for the Parcel at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which Parcel is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no Assessment shall be assessed or levied on it; and (c) each other Parcel shall be charged, in addition to its equal assessment, its pro rata share of the Assessment that would have been charged such Parcel had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment against an Owner for unpaid Common Expenses and attorney's fees and costs shall be maintainable without foreclosing or waiving the lien securing the same.

In the event that any delinquent Assessment is not paid within ninety (90) days after the delinquency date, the Owner's right to vote in Association matters shall be suspended, to be reinstated only upon payment in full of such delinquent Assessment.

Section 17. Subordination of the Lien to the Mortgages; Mortgagees' Rights. The lien of the Assessments provided for herein is subordinate to the lien of any first Mortgage given to an Institutional Lender now or hereafter placed upon a Parcel; provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to a sale or transfer of such Parcel pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any Assessments thereafter becoming due, nor from the lien of any such subsequent Assessment.

Upon such sale or transfer, voting rights with respect to such Parcel, that may have been suspended due to the failure of payment of any Assessments that were due and payable prior to such sale or transfer, shall be reinstated.

An Institutional Lender, upon request, shall be entitled to written notification from the Association of any default of an Owner of any obligation hereunder which is not cured. The Association may provide such notice without receiving a request from the Institutional Lender.

Section 18. Certificates of Status. The Association shall, upon demand at any time, furnish to or on behalf of any Owner a certificate in writing signed by an officer or management agent of the Association setting forth whether all Assessments levied hereunder have been paid as to any particular Parcel, whether, to the best knowledge of such officer or agent, any Parcel or Owner thereof is in compliance with the terms and provisions of this Declaration, including, but not limited to, compliance with architectural guidelines and restrictive covenants set forth in Articles X and XI, and as to any other matters pertaining to any Parcel, any Owner or Member as may reasonably be requested. Such certificate shall be conclusive evidence of payment to the Association of any Assessment therein stated to have been paid. The Association may require the advance payment of a processing fee, not to exceed Fifty and No/100 Dollars (\$50.00), for the issuance of such certificate.

Section 19. Exempt Property. All Common Property, and any portions of the Property fee simple title to which is dedicated to and accepted by any governmental authority, shall be excepted and exempt from the Assessments, charges and liens created in this Article IX.

## ARTICLE X ARCHITECTURAL CONTROL

Section 1. Reservation of Architectural and Landscape Control. In order to ensure the development of the Property will proceed pursuant to a uniform plan of development and construction and in accordance with consistent architectural, ecological, environmental and aesthetic standards, including any architectural or design guidelines or standards contained in any governmental permit, approval, ordinance, rule or regulation, or the like, applicable to Eagle Creek, including, but not limited to, the Land Use Plan, the Compatibility Plan, and the Design Guidelines, Declarant shall have and hereby reserves exclusively unto itself for the duration hereinafter specified, the right, privilege and authority to review, approve and control the design, placement, construction, erection, installation and maintenance of any and all buildings, structures and other improvements of any kind, nature or description, including landscaping, upon the Property and Common Property, including further, without limitation, approval of the identity of any and all persons or entities performing construction, reconstruction or repair work to such buildings, structures and other improvements. Declarant's approval of any of the foregoing items may be granted or withheld in the sole discretion of Declarant or its designee. In reviewing and acting upon any request for approval, Declarant or its designee shall be acting solely in the interest of the Declarant and shall owe no duty to any other person, including any Member or Owner. Such right and control of Declarant shall be exercised in a manner and pursuant to the same procedures as is hereinafter provided in this Article X for the ARB. Declarant may elect to delegate the aforesaid right, privilege and authority to the Association, acting through the ARB. Declarant may rescind or revoke the delegation of this right, privilege

and authority at any time and for any reason, whereupon Declarant shall once again have the exclusive possession of such rights, powers, duties and authority. The aforesaid right, privilege and authority shall remain with Declarant until such time as Declarant has divested itself of title to all properties located within Eagle Creek, at which time said right, privilege and authority shall vest in the Association. There shall be no prior surrender of the aforesaid right, privilege and authority except as provided in this Section 1.

Notwithstanding anything in the foregoing to the contrary, Declarant contemplates that Commercial Parcels may be annexed into the coverage of this Declaration without being subjected to the right, privilege and authority reserved to Declarant, the Association or the ARB pursuant to this Article X; Declarant electing, instead, to retain such right, privilege and authority pursuant to private agreements applicable only to such Parcel. In this regard, Commercial Parcels, and the Owners thereof, shall only be subjected to the right, privilege and authority reserved to Declarant, the Association or the ARB pursuant to this Article X to the extent specifically set forth in the Supplement pursuant to which a Commercial Parcel is subjected to this Declaration.

Section 2. Architectural Review Board. The Association shall at all times maintain an ARB, as a standing committee consisting of at least three (3) persons, to perform the ARB functions described in this Declaration for the Property. Until such time as the Declarant has divested itself of title to all properties located within Eagle Creek, it shall have the right to designate all three (3) members of the ARB. Upon expiration of the foregoing described right of the Declarant, the ARB members shall be appointed by, and serve at the pleasure of, the Board.

The purpose of the ARB shall be to exercise the right, privilege and authority to review, approve and control the design, placement, construction, erection and installation of buildings, structures and other improvements upon the Parcels and Common Property on behalf of, or as delegated to the Association and ARB by, Declarant as described in Section 1 above, including, but not limited to, review and approval of plot plans and construction plans and specifications for all Parcels in order to ensure that Eagle Creek is developed consistent with the terms and provisions of this Declaration and any Architectural Guidelines promulgated by the Declarant or the ARB. Subject to the Declarant's, or Board's if delegated to the Association, discretionary review and approval of same, the ARB shall have the authority to promulgate procedures, rules and regulations (including, but not limited to, the Architectural Guidelines) with respect to any aspect of the actions contemplated in this Declaration to be taken by the ARB. The ARB also has the right to elect, in its reasonable discretion, to waive, vary or modify standards or procedures (whether such standards and procedures are set forth in this Declaration, the Architectural Guidelines or in the rules and regulations adopted by the ARB pursuant to this Declaration) for the review and approval of plot plans or construction plans and specifications, such waiver or modification to be in writing and signed by a majority of the members of the ARB. Refusal to approve plans, specifications and plot plans, or any of them, may be based on any ground, including purely on aesthetic grounds, which in the sole and absolute discretion of the ARB are deemed sufficient. Any change in the exterior appearance of any building, wall, fencing or other structure or improvements, and any substantial change in the appearance of the landscaping, shall be deemed an alteration requiring approval.

If and to the extent required by the laws of the State of Florida, the Bylaws governing meetings of the Board shall likewise apply to meetings of the ARB, otherwise no particular formality is required for any of the ARB's proceedings, including any hearing, nor is any record required. A majority of the ARB may take any action the ARB is empowered to take, may designate a representative to act for the ARB and may employ personnel and consultants to act for it. In the event of death, disability or resignation of any member of the ARB, a successor shall be appointed.

The ARB shall act on submissions to it within thirty (30) days after receipt of the same (and all further documentation required), but its failure to do so shall not result in, or be deemed to mean, that the ARB has approved of the item submitted.

No building, wall, fence, or other structure or improvement of any nature (including, but not limited to, landscaping, exterior materials, paint or finish, hurricane protection, basketball hoops, children's play structures, birdhouses, other pet houses, swales, asphaltting or other improvements or changes of any kind) shall be commenced, erected, placed, repaired, modified or altered on any Parcel without approval of the ARB. In order to obtain ARB approval, the person intending to make the improvements must submit to the ARB (i) a plot plan for the Parcel showing the location on the Parcel of all improvements, existing or proposed, and (ii) the construction plans and specifications showing such things as building elevations (for all exterior walls), materials (including size and quantity information) and colors. The ARB shall have no obligation to approve the plot plan or construction plans and specifications with respect to any Lot until the "Village Plan" (described below) for the Village within which the Lot is located has been received and approved by the ARB. In this regard, no plot plan or construction plans and specifications for a Lot shall be inconsistent with such approved Village Plan.

No building, wall, fence or other structure or improvement of any nature (including, but not limited to, landscaping, exterior materials, paint or finish, hurricane protection, basketball hoops, children's play structures, bird houses, other pet houses, swales, asphaltting or other improvements or changes of any kind) shall be commenced, erected, placed, repaired, modified or altered on any Village until plans and specifications depicting such matters as building elevations, landscaping, building materials and colors ("Village Plan") have been approved in writing by the ARB.

Section 3. ARB Fees; Assistance. The ARB shall be entitled to charge a review and processing fee for each submittal received by it, whether same is received with respect to an individual Lot or with respect to a Village Plan. The ARB may employ architects, engineers or other professionals, as deemed necessary, to perform the reviews contemplated in this Article X and shall be entitled to include in its fees the reasonable costs incurred to retain such architects, engineers or other professionals.

Section 4. Architectural Guidelines. The ARB shall have the authority to, from time to time, adopt and amend architectural guidelines which contain general and specific criteria, guidelines, and other provisions applicable to, and which must be satisfied in connection with, development within the Property and the ARB's approval thereof ("Architectural Guidelines"); which Architectural Guidelines may not conflict with any provisions of this Declaration. The ARB shall make the Architectural Guidelines available to Owners who seek to engage in

development or construction within the Property. The ARB shall have the sole and absolute authority to amend the Architectural Guidelines, which amendments shall be prospective only and shall not apply to, require modifications to or removal of, structures previously approved by the ARB, provided that construction or modification of such structure has commenced. There shall be no limitation on the scope of amendments to the Architectural Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Architectural Guidelines less restrictive. The Architectural Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the ARB in considering applications hereunder. The Architectural Guidelines are not the exclusive basis for decisions of the ARB and compliance with the Architectural Guidelines does not guarantee approval of any application. In addition to the Architectural Guidelines, any improvements constructed upon the Property must comply with all of the covenants and restrictions contained in this Declaration (however, such compliance does not automatically entitle an applicant to ARB approval of its planned improvement).

Section 5. Inspection and Noncompliance. The ARB shall have the right to enter upon and inspect any Parcel at any time prior to, during or after the construction or alteration of improvements on such portion to ensure compliance with its approvals and requirements. If, during the inspection, the ARB finds that the work was not performed, or the improvements were not constructed, in substantial compliance with plans approved by the ARB; or if during subsequent inspection the ARB notes that previously inspected improvements are not being maintained in compliance with the ARB's approvals and requirements or with the aesthetic standards or other standards imposed by the ARB, then the ARB shall notify the Owner in writing of such noncompliance. Such written notice shall specify the particular areas of noncompliance and shall demand that the Owner immediately bring such improvements into compliance.

Section 6. Enforcement. If an Owner shall have failed to remedy a noncompliance within thirty (30) days from the date of the notice described in the previous Section, the ARB shall notify the Board in writing of such failure. The Board shall demand that the Owner remedy or remove the noncomplying improvements within a period of not more than fifteen (15) days from the date of such demand. If the Owner does not comply within that period, the Board, in its sole discretion, may either remove the noncomplying improvement or remedy the noncomplying improvement, and the Owner shall reimburse the Association for all expenses incurred in connection therewith, including, but not limited to, reasonable attorneys' fees and other costs of litigation connected therewith, which fees and costs shall include those incurred in connection with, or as a result of, any appellate proceeding, re-hearing, appeal or otherwise. If such expenses are not promptly reimbursed, the Board shall levy a special assessment against the Parcel upon which the noncomplying improvement is located. In addition to the above, the Association may exercise any other remedy available to it under this Declaration.

Section 7. No Liability for Actions. Neither the ARB, the Declarant, the Association, the Board, nor any of their members, officers, directors or duly authorized representatives, shall be liable to any person or entity for any loss, damage, injury or inconvenience arising out of or in any way connected with the performance or nonperformance of the ARB's duties under this Declaration.

Section 8. No Waiver. If, for any reason, the ARB fails to notify an Owner of any noncompliance, such failure shall not relieve the Owner from the requirements to comply with all provisions of this Declaration.

Section 9. Audubon International Sustainable Development Program and Signature Program. Declarant desires, though is not required, to develop Eagle Creek following principles for sustainable resource management designed toward better compatibility and harmony of proposed development within Eagle Creek with the natural environment of Eagle Creek. In this regard, extensive environmental studies have been conducted at Eagle Creek providing to Declarant an extensive body of knowledge concerning environmental factors, including topography, geology, hydrology, botany, climate, archeology and ecology. Based upon such studies, Declarant has developed a philosophy of development designed to blend the people and structures of Eagle Creek with the existing land into a harmonious and aesthetically pleasing residential community with an emphasis on the sustainability of the natural environment. This philosophy is expressed by Eagle Creek's proposed participation and ultimate certification in Audubon International's Sustainable Development Program and Signature Program (collectively, "Program"). The essence of the Program is sustainability, using natural resources, without depleting them, in ways that will support human activity. Declarant intends for the Property to be developed in a manner designed to maintain Eagle Creek's certification under the Program, and Declarant therefore intends to consider the guidelines of the Program before approving the design, placement, construction, erection, installation or maintenance of any and all buildings, structures and other improvements of any kind, nature or description, including landscaping. Attached to this Declaration as Composite Exhibit "E" are materials explaining the Program and providing the information which may guide Declarant's efforts to ensure development of Eagle Creek in a manner that is consistent with and designed to maintain Eagle Creek's certification under the Program. The following materials attached at Composite Exhibit "E" are intended to assist Declarant in making decisions regarding the development of Eagle Creek but do not represent absolute development criteria for developing or building within Eagle Creek:

- Appendix A: Principles for Sustainable Resource Management
- Appendix B: Choosing Green Building Materials
- Appendix C: Waste Management and Energy Planning
- Appendix D: Construction Guidelines for Residential Development

Section 10. Exemption of Declarant. Declarant shall be exempt from the provisions of this Article X and shall not be obligated to obtain ARB approval for any construction or change in construction or alterations to improvements which Declarant may elect to make at any time.

## ARTICLE XI RESTRICTIVE COVENANTS

Section 1. Applicability. This Article XI contains restrictive covenants applicable to the use of all or certain portions of the Property, as more particularly set forth herein ("Use Restrictions"). All Owners are hereby given notice that use of the Property and the Common Property is bound, restricted and limited by the Use Restrictions, as they may be amended, expanded and otherwise modified consistent with the provisions of this Article XI. Each Owner, by acceptance of a deed for any portion of the Property, hereby acknowledges and agrees that the

use and enjoyment and marketability of the Property can be affected by the Use Restrictions and that the Use Restrictions may change from time to time, and all purchasers of any portion of the Property are hereby placed on notice that the Use Restrictions as initially set forth in this Article XI may have been amended, expanded or otherwise modified. Copies of the current Use Restrictions may be obtained from the Association. The Use Restrictions shall not be applicable to those portions of the Property owned by Declarant, but shall be applicable to such portions of the Property immediately upon conveyance thereof by Declarant. The Use Restrictions do not, however, constitute all restrictions, restraints, criteria, conditions or constraints associated with development of the Property and the Property is also subject to all restrictions, restraints, criteria, conditions and constraints as are set forth in any and all permits or approvals applicable to development of the Property, including, but not limited to, all such restrictions, restraints, criteria, conditions and constraints set forth in the Land Use Plan, Design Guidelines, and any Plat or PSP/DP.

Section 2. Approved Builders. All construction, reconstruction and repair work upon any Parcel shall be performed by a licensed building contractor approved by the Declarant or the ARB. If a Parcel has been sold to an approved contractor, any subsequent purchaser shall be required to comply with this Section.

Section 3. Mining or Drilling. There shall be no mining, quarrying or drilling for minerals, oil, gas or otherwise undertaken within any portion of the Property. Excepted from the foregoing shall be activities of Declarant, or any assignee of Declarant, in dredging water areas, creating land areas from water areas or creating, excavating or maintaining drainage or other facilities or easements, and the activities of Declarant or any Owner in connection with the installation of wells, pumps or sprinkler systems, as approved by the Association, shall be in compliance with applicable governmental requirements.

Section 4. Maintenance. Each Owner shall maintain its Parcel, including all landscaping and improvements, in a manner consistent with this Declaration, the rules and regulations of the Association and the Community-Wide Standard. Unless and until maintenance of such areas is assumed by the Association, each Owner shall also be responsible for maintaining and irrigating landscaping lying between the boundary of such Owner's Parcel and any public right-of-way or any wall or fence; provided, however, that no Owner shall remove any trees, shrubs or other vegetation from these areas without the prior written approval of the Association.

Section 5. Subdivision or Partition. No portion of the Property shall be subdivided except with the prior written consent of Declarant.

Section 6. Use of Easement Areas. Utilities easements are reserved as shown on the recorded plats covering the Property, as provided in this Declaration or as established by stand alone easement documents. No structure, planting or other material may be placed or permitted in these easements that will interfere with or prevent the maintenance of utilities. The area of each Lot included within these easement areas shall be maintained continuously by the Owner of the Lot, except as may be provided herein to the contrary and except for installations for which a public authority, agency or utility company is responsible. All utilities and lines within the



subdivision, whether in street rights-of-way or in utility easements, shall be installed and maintained underground.

Section 7. Additional County Imposed Restrictions. In addition to the aforescribed Use Restrictions, Eagle Creek shall also be subject to the following restrictive covenants imposed in satisfaction of the requirements of the County imposed by the County in conjunction with its approval of the Eagle Creek DRI. The following described restrictive covenants ("County Use Restrictions") shall constitute Use Restrictions for purposes of this Declaration, subject to all of the foregoing terms and provisions of this Article XI, except as and to the extent modified in the following provisions of this Section 7. The County Use Restrictions are as follows:

A. Development shall conform to the Land Use Plan and to the Design Guidelines approved by the County in connection with its approval of the Eagle Creek DRI, and all its appendices.

B. Pole signs, billboards and outside storage and display are prohibited.

Notwithstanding anything to the contrary contained in this Declaration, the County Use Restrictions may not be amended, removed or superceded without the prior approval of the County Board of County Commissioners, which approval may be withheld in the sole discretion of the County Board of County Commissioners. Additionally, the County Use Restrictions may be enforced by the Association or any person owning any part of the Eagle Creek Development. Lastly, the County shall have the right, but not the duty, to enforce the County Use Restrictions in the same manner as it enforces county ordinances and regulations.

Section 8. Use of Name "Eagle Creek". No Owner shall use the name "Eagle Creek", any logo associated with such name and used by Declarant in connection with the Property, or any derivative of such name or logo in any printed or promotional material or in any activity, without the Declarant's prior written consent. Declarant may, however, use such names and logos with respect to any property or other development activities of Declarant, without the consent of any party, including any Owner.

Section 9. Village Specific Use Restrictions. In addition to the aforescribed Use Restrictions, each Village, as and when subjected to the terms and provisions of this Declaration, shall be subject to the restrictive covenants imposed upon such Village in conjunction with the annexation of such Village into the coverage of this Declaration as more specifically set forth in the Supplement (such restrictive covenants being hereinafter referred to as the "Village Specific Use Restrictions"). Any Village Specific Use Restrictions imposed pursuant to this Declaration shall specifically identify the Villages to which such Village Specific Use Restrictions pertain. The first identified Village Specific Use Restrictions are as set forth in Exhibit "F" attached to this Declaration and hereby incorporated herein.

Section 10. Amendment to Village Specific Use Restrictions. In furtherance of the purposes of this Declaration, Declarant acknowledges the need for an ability to respond to unforeseen problems, changes in circumstances, conditions, needs, desires, trends and technology which affect the Property and Owners, and in furtherance thereof Declarant hereby establishes that the Association shall have the ability to enact, modify, expand, create exceptions to, limit,

cancel and/or otherwise amend any Village Specific Use Restrictions (for purposes of this Article XI, hereinafter a "Use Amendment"), all upon the terms and conditions as set forth in this Article XI. Notwithstanding anything in the foregoing to the contrary, no Use Amendment shall be permitted without the express written consent of the Declarant for so long as the Declarant shall own any of the lands located within Eagle Creek. Additionally, no Use Amendment may be made in violation of the following provisions, except as may be specifically provided in this Declaration:

A. Similarly situated Owners shall, to the extent reasonably practicable, be treated similarly.

B. No Use Amendment may abridge the rights of Owners to display religious and holiday signs, symbols and decorations inside dwellings on their Lots, except that the Board may adopt time, place and manner restrictions with respect to displays visible from outside the dwelling.

C. No Use Amendment may interfere with the freedom of Owners to determine the composition of their households, except that the Association shall have the power to limit the total number of occupants permitted in each residential dwelling within rental property on the basis of the size and facilities of the dwelling constructed on the Lot and such Lot's occupants' fair use of the Common Property.

D. No Use Amendment may interfere with the activities carried on within a residential dwelling, except that the Association may prohibit activities not normally associated with property restricted to residential use, and any activities that create monetary costs for the Association or other Owners, that create a danger to health or safety of other Owners or their family, tenants, guests or other invitees, that cause offensive odors, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance to other Owners, their family, tenants, guests or invitees.

E. No Use Amendment may prohibit the leasing or transfer of any Lot, or require the consent of the Association therefor, pursuant to and consistent with the terms and provisions of this Declaration; provided, however, that the Association may enforce the minimum lease term restrictions as otherwise set forth in this Declaration.

F. No Use Amendment may require an Owner to dispose of personal property which it maintained in or on its Lot prior to the effective date of such Use Restriction, or to vacate a dwelling in which it resided prior to the effective date of such Use Amendment, provided that such personal property was maintained, or such occupancy was, in compliance with this Declaration and all Use Restrictions previously in force.

**ARTICLE XII**  
**GOLF COURSE DISCLOSURE AND DISCLAIMER**

Any party acquiring title to a Parcel shall be deemed to have acknowledged and agreed to the presence of a golf course constituting a part of the Property. Owners shall be deemed to have accepted and agreed to all the usual and common noises, disturbances and errant golf balls created by, and incident to, the construction and operation of the golf course.

By purchasing a Parcel in the vicinity of a golf course, and by exercising its rights to utilize the Common Property, as against the Declarant, Association and any of their affiliates or agents, each Owner shall be deemed to have expressly assumed the risk of noise, personal injury, death, or property damage caused by the maintenance and operation of the golf course, including, without limitation: (a) noise from maintenance equipment (it being specifically understood that maintenance typically takes place around sunrise or sunset); (b) noise caused by golfers and other golf course users; (c) use of pesticides, herbicides, and fertilizers; (d) use of effluent in irrigation; (e) reduction in privacy caused by traffic (including non-residents of the community) to or from the golf course, golf traffic on the golf course, or the removal or pruning of shrubbery or trees on the golf course; (f) errant golf balls and golf clubs; and (g) design or redesign of the golf course.

Each Owner agrees that neither Declarant, nor the Association, nor any of their affiliates or agents, shall be liable to any Owner or any other person claiming any loss or damage, including, without limitation, indirect, special, or consequential loss or damage arising from personal injury, death, destruction of property, trespass, nuisance, loss of enjoyment, or any other alleged wrong or entitlement to remedy based upon, due to, arising from, or otherwise related to the proximity of Owner's Parcel to the golf course or the maintenance, use or operation of the golf course. The foregoing acknowledgements, agreements, assumptions and waivers of each Owner shall be binding upon and inure to any family members, tenants, guests or other invitees of such Owner and the Owner agrees to indemnify and hold harmless Declarant and the Association, and any of their affiliates or agents, against any and all such claims by Owner's family members, tenants, guests and other invitees upon such Owner's Parcel.

**ARTICLE XIII**  
**TURNOVER AND TRANSFER OF CONTROL OF GATED COMMUNITY**  
**SUBDIVISION INFRASTRUCTURE**

Section 1. Time of Turnover. The Turnover of the Association by the Declarant shall occur at the Turnover meeting described in Section 2 below, at such time as is required pursuant to the Association Act, Chapter 720 of the Florida Statutes, (but in no event earlier than the date required by the Association Act as in existence on the date of Declarant's execution of this Declaration); or earlier upon Declarant's election, in its sole and absolute discretion, to cause the Turnover to occur.

Notwithstanding anything in the foregoing provisions of this Section 1 to the contrary, as long as the Gated Community Provisions of this Declaration are in effect, Turnover may not

occur sooner than the point in time at which certificates of occupancy have been issued for 70% of the maximum number of Gated Residential Lots allowed for the Property under the Land Use Plan.

Section 2. Procedure of Calling Turnover Meeting. The purpose of the Turnover meeting shall be to elect directors to the Association. No more than sixty (60) days and no less than thirty (30) days prior to the Turnover meeting, the Association shall notify in writing all Class A and Class B Members of the date, location, and purpose of the Turnover meeting.

Section 3. Procedure for Meeting. The Turnover meeting shall be conducted in accordance with the most recent revision of Robert's Rules of Order.

Section 4. Transfer of Control. Except as otherwise provided below, or as otherwise set forth elsewhere in this Declaration, or as otherwise provided in the Gated Communities Code, Transfer of Control shall occur simultaneously with Turnover, and no further action shall be required of Declarant hereunder to evidence, in the Public Records or otherwise, the occurrence of the Transfer of Control. In the event that Transfer of Control occurs prior to Turnover, then Transfer of Control shall be evidenced by written notice from Declarant to the Association. Notwithstanding anything in the foregoing provisions of this Section 4 to the contrary, as long as the Gated Community Provisions of this Declaration are in effect, Transfer of Control of any Gated Community Subdivision Infrastructure located within any portion of the Property depicted in any Plat may not occur sooner than the point in time at which certificates of occupancy have been issued for 70% of the Gated Residential Lots depicted in such Plat, and must occur no later than the point in time at which certificates of occupancy have been issued for 90% of the Gated Residential Lots depicted in such Plat.

Section 5. Declarant's Rights. For as long as the Declarant shall own at least five percent (5%) of the sum of the existing and future Lots that will ultimately be governed by the Association, it shall have the right to appoint one (1) member of the Board and for so long as Declarant shall own any of the lands located within the Property, the limitations described by Article XIV shall remain applicable.

#### **ARTICLE XIV** **DECLARANT'S RIGHTS**

Notwithstanding any provisions contained in this Declaration to the contrary, at any time that Declarant owns any of the lands located within Eagle Creek, Declarant shall have the following rights described in this Article XIV, and the following restrictions described in this Article XIV shall remain in effect:

A. Declarant may maintain and carry on upon portions of the Common Property such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of any of the lands within Eagle Creek, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Parcels owned by

the Declarant as models, sales offices, and for lodging and entertainment, respectively, of sales prospects and other business invitees.

B. No person or entity shall record any declaration of covenants, conditions and restrictions affecting any portion of the Property without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration or similar instrument being void and of no force and effect unless subsequently approved by recorded consent and signed by the Declarant.

C. Declarant shall have the right, in its discretion, to receive and approve all sales, promotional, and advertising materials for the subdivision and sale of lands in the Property by any Owner, which approval shall not be unreasonably withheld. Declarant shall deliver notice to any such Owner of Declarant's approval or disapproval of all such materials and documents within thirty (30) days of receipt of such materials and documents, and, if disapproved, set forth the specific changes requested. If Declarant fails to do so within such thirty (30) day period, Declarant shall be deemed to have waived any objections to such materials, forms and documents and to have approved the foregoing. Upon disapproval, the foregoing procedure shall be repeated until approval is obtained or decreed to be obtained. It is hereby established that if Declarant elects to exercise the rights set forth above to review and approve all sales, promotional and advertising materials of any Owner, it shall not by doing so incur or create in favor of any third party any liability, obligation or responsibility to ensure that any such materials comply with any and all applicable laws, rules and regulations nor to determine or correct any false or misleading claims or statements contained in such materials. Further in this regard, Declarant's exercise of such rights shall not be deemed to create a partnership, joint venture or principal/agent relationship with such Owner.

Any or all of the special rights and obligations of the Declarant may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right of the Declarant beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records of Orange County, Florida.

This Article XIV may not be amended without the express written consent of the Declarant.

#### **ARTICLE XV** **MORTGAGEE PROVISIONS**

The following provisions are for the benefit of the "Eligible Holders" (defined later in this Article XV) only and may not be enforced or relied upon by anyone else.

**Section 1. Notices of Action.** An Institutional Lender that provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and to identify with particularity the Lot, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

A. any delinquency in the payment of Assessments or charges owed by an Owner of the Lot subject to the Mortgage of such Eligible Holder, where such delinquency has

continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any Eligible Holder, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of any obligation under this Declaration or Bylaws which is not cured within sixty (60) days;

B. any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

C. any proposed action which would require the consent of a specified percentage of Eligible Holders.

Section 2. Voting Rights of Mortgagee. For purposes of this Article XV, Section 2 only, an Eligible Holder shall be entitled to one (1) vote for each first Mortgage owned.

A. Unless (i) at least two-thirds (2/3) of the Eligible Holders, or (ii) Voting Members representing at least two-thirds (2/3) of the total Association Members consent, the Association shall not:

(1) by act or omission abandon, partition, subdivide, encumber, sell or transfer all or any portion of the real property comprising the Common Property which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Property, and as otherwise allowed in accordance with this Declaration, shall not be deemed a transfer within the meaning of this sub-section.);

(2) change the method of determining the obligations, Assessments, dues, or other charges which may be levied against an Owner (a decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Property regarding assessments shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration.);

(3) by act or omission change, waive or abandon any scheme or regulation or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Residential Lots and of the Common Property (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment, within the meaning of this provision.);

(4) fail to maintain insurance as required by this Declaration; or

(5) use hazard insurance proceeds for any Common Property losses for other than the repair, where reasonably practicable, of such Common Property.

B. In the event a portion of the Common Property is either condemned or destroyed or damaged by a hazard that is insured against, restoration or repair shall be performed substantially in accordance with the provisions of the Declaration and the original plans and specifications for the project unless fifty-one percent (51%) of the Eligible Holders approve the taking of other action by the Maser Association.

C. The vote or written consent of sixty-seven percent (67%) of the total Voting Members of the Association and fifty-one percent (51%) of the Eligible Holders shall be required to assume self-management of the Association if professional management of the Association has been required by an Eligible Holder at any time.

Section 3. Voluntary Payments by Mortgagees. Eligible Holders may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of a Association policy, and Eligible Holders making such payments shall be entitled to immediate reimbursement from the Association.

Section 4. No Priority. No provision of this Declaration or the Articles of Incorporation or Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

Section 5. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Residential Lot.

Section 6. Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article XV or make any such requirements less stringent, the Declarant or the Board, without approval of the Owners, may cause an amendment to this Article XV to be recorded to reflect such changes.

Section 7. Applicability of this Article. Nothing contained in this Article XV shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the Articles of Incorporation, the Bylaws, or Florida corporate law for any of the acts set out in this Article XV.

Section 8. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

## ARTICLE XVI INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. The Board, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk casualty insurance for all improvements on the Common Property, including, but not limited to, insurance on the Gated Community Subdivision Infrastructure as required pursuant to Article V of this Declaration. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

To the extent available on commercially reasonable terms and conditions, the Board may also obtain a public liability policy covering the Common Property, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least One Million Dollar (\$1,000,000.00) limit for bodily injury, personal injury, and property damage from a single occurrence, and, if reasonably available, a Five Million Dollar (\$5,000,000.00) umbrella liability policy.

Premiums for all insurance on the Common Property shall be Common Expenses of the Association and shall be included in the Annual Assessment, as described in Article IX. The policy may contain a reasonable deductible, and, in the case of casualty insurance, the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board shall be written in the name of the Association as trustee for the respective benefitted parties, as further identified in Sub-section B below. Such insurance shall be governed by the provisions hereinafter set forth:

A. All policies shall be written with a company licensed to do business in Florida and which holds a Best's rating of A or better, if reasonably available, or, if not available, the most nearly equivalent rating.

B. All policies on the Common Property shall be for the benefit of the Association, the Declarant and the Members.

C. Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

D. In no event shall the insurance coverage obtained and maintained by the Board hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

E. All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Orlando, Florida, metropolitan area.

F. The Board shall make every reasonable effort to secure insurance policies that will provide for the following:

(1) a waiver of subrogation by the insurer as to any claims against the Board, its manager, the Owners, and their respective tenants, servants, agents and guests;



(2) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(3) a statement that no policy may be cancelled, invalidated, suspended or subject to non-renewal on account of any one or more individual Owners;

(4) a statement that no policy may be cancelled, invalidated, suspended or subject to non-renewal on account of the conduct of any director, officer, or employee of the Association or its duly authorized representative without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time period within which the defect may be cured by the Association, any Member, any Owner or Mortgagee;

(5) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(6) that the Association will be given at least thirty (30) days prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to the other insurance required by this Section 1 of this Article XVI, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds, if reasonably available, and flood insurance if required. The amount of fidelity coverage shall be determined in the Board's best business judgment but, if reasonably available, may not be less than three (3) months' assessment on all Parcels, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

Section 2. Individual Insurance. By virtue of taking title to a Parcel, each Owner covenants and agrees with all other Owners, and with the Association, that each Owner shall carry blanket all-risk casualty insurance on the Parcel and structures constructed thereon meeting the same requirements as set forth in Section 1 of this Article XVI for insurance on the Common Property. Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising its Parcel, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with this Declaration. The Owner shall pay any costs of repair or reconstruction which is not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner may decide not to rebuild or to reconstruct, in which case the Owner shall clear the Parcel of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and thereafter the Owner shall continue to maintain the Parcel in a neat and attractive condition consistent with the Community-Wide Standard.

Section 3. Damage and Destruction.

A. Immediately after damage or destruction by fire or other casualty to all or any part of the Property covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Property to substantially the same condition in which it existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

B. Any damage or destruction to the Common Property shall be repaired or reconstructed unless the Voting Members representing at least seventy-five percent (75%) of the total vote of the Association, or the Owners representing at least seventy-five percent (75%) of the total vote of the Owners whose Limited Common Property is damaged, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Property shall be repaired or reconstructed; provided, however, this provision shall not apply to construction Mortgagees providing construction financing for such damaged property.

C. In the event that it should be determined in the manner described above that the damage or destruction to the Common Property or to the Limited Common Property shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Property shall be restored to their natural state and maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

Section 4. Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Property shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement, as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Eligible Holder and may be enforced by same.

Section 5. Repair and Reconstruction. If the damage or destruction to the Common Property for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Voting Members, levy a Special Assessment against all Owners on the same basis as provided for Annual Assessments; provided, if the damage or destruction involves Limited Common Property, only the Owners entitled to the use of the Limited Common Property shall be subject to Assessment therefor. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

**ARTICLE XVII**  
**NO PARTITION**

Except as is permitted in this Declaration or amendments hereto, there shall be no physical partition of the Common Property or any part thereof, nor shall any person or entity acquiring any interest in the Property or any part thereof seek any judicial partition unless the Property has been removed from the provisions of this Declaration. This Article XVII shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property or real property which may or may not be subject to this Declaration.

**ARTICLE XVIII**  
**CONDEMNATION**

Whenever all or any part of the Common Property shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of the Voting Members representing at least two-thirds (2/3) of the total Association vote and the Declarant, as long as the Declarant owns any lands located within Eagle Creek) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Property on which improvements have been constructed, then unless within sixty (60) days after such taking, the Declarant, so long as the Declarant owns any lands located within Eagle Creek, and Voting Members representing at least seventy-five percent (75%) of the total vote of the Association, shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefor, in accordance with plans approved by the Board. If such improvements are to be repaired or restored, the above provisions in Article XVI hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Property, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

**ARTICLE XIX**  
**GENERAL PROVISIONS**

Section 1. Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association, the Declarant, and any Owner, their respective legal representatives, heirs, successors and assigns, for a period of thirty (30) years from the date this Declaration is recorded. Upon the expiration of said thirty (30) year period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial thirty (30) year period, or during the last year of any subsequent ten (10) year renewal period, Voting Members representing three-fourths (3/4) of the votes of the Association vote in favor of terminating this Declaration at the end of its then current term.

Written notice of any meeting at which such proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given at least sixty (60) days in advance of said meeting. In the event that the Association votes to terminate this Declaration, the President and Secretary of the Association shall execute an affidavit which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the total number of votes necessary to adopt a resolution terminating this Declaration, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution.

Said certificate shall be recorded in the Public Records of Orange County, Florida, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration. Termination of this Declaration shall not have the effect of terminating easements herein provided or granted prior to such termination, or terminating contractual rights created prior to termination which from the context of the contract were meant to survive termination.

Section 2. Amendments by Members. This Declaration, and the Articles of Incorporation and Bylaws, may be amended at any time by the affirmative vote or written consent, or any combination thereof, of Voting Members representing sixty-six and two-thirds percent (66 2/3%) of the total votes of the Association and, as long as the Declarant owns any lands located within Eagle Creek, with the written consent of Declarant; provided, however, that if the affirmative vote required for approval of action under the specific provision to be amended is a higher or lower percentage, then such higher or lower percentage shall be required to approve amendment of that provision. Notice shall be given at least sixty (60) days prior to the date of the meeting at which such proposed amendment is to be considered. If any proposed amendment to this Declaration, the Articles of Incorporation or Bylaws, is approved by the Members as set forth above, the President and Secretary of the Association shall execute an

appropriate amendment which shall set forth the amendment, the effective date of the amendment, the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the number of votes necessary to adopt the amendment, the total number of votes cast for the amendment, and the total number of votes cast against the amendment. If such amendment relates to this Declaration it shall be recorded in the Public Records of Orange County, Florida.

Section 3. Amendments by Declarant. Until such time as the Turnover meeting described in Article XIII occurs, the Declarant specifically reserves for itself, its successors and assigns, the absolute and unconditional right to alter, modify, change, revoke, rescind, or cancel any or all of this Declaration or the restrictive covenants contained in this Declaration, provided that such alteration, modification, change, revocation, rescission or cancellation does not materially and adversely interfere with an Owner's then permitted use of its Parcel. After the Turnover, the Declarant shall continue to have the absolute and unconditional right to alter, modify, change, revoke, rescind or cancel any or all of this Declaration as necessary to comply with any obligations or requirements imposed upon Declarant, or otherwise in connection with the development of Eagle Creek, by any applicable governmental authority. Otherwise, following Turnover, this Declaration may only be amended pursuant to the provisions of Section 2 of this Article XIX.

Section 4. Restrictions on Amendments. Notwithstanding anything to the contrary contained in Sections 2 or 3 of this Article XIX above, no amendment to this Declaration, the Articles of Incorporation or Bylaws may (i) remove, revoke, or modify any right or privilege of the Declarant without the written consent of Declarant or the assignee of any such right or privilege, (ii) impair the validity or priority of the lien of any Mortgage held by a Mortgagee or impair the rights granted to Mortgagees herein without the prior written consent of such Mortgagees, (iii) to the extent that any provision of the Declaration, Articles of Incorporation or Bylaws is included in satisfaction of any condition of approval of the Eagle Creek DRI or any PSP/DP or Plat, such provision shall not be changed, amended, modified or otherwise deleted or eliminated without the prior written consent of the County, (iv) result in or facilitate a termination of the Association's obligation to maintain the Common Property, or (v) change, amend, modify, eliminate or delete the restrictions contained in this Section 4 of this Article XIX. In addition to the foregoing, any amendment to this Declaration that would affect the Surface Water Management System (including any Conservation Areas) may be made only with the prior approval of the SFWMD, and no amendment may be made to this Declaration that would cause this Declaration or the Property to be in violation of the Gated Communities Code, as and to the extent that compliance with the Gated Communities Code is and remains mandatory upon the Declarant, the Association or the Property.

Section 5. Assignment of Rights and Duties. Any and all of the rights, powers and reservations of the Declarant may be assigned to any person, corporation or association which will assume the duties of the Declarant pertaining to the particular rights, powers and reservations assigned. Upon such assignee evidencing the consent in writing to accept such assignment and assume such duties, the assignee shall to the extent of such assignment have the same rights and powers and be subject to the same obligations and duties as are herein given to and assumed by the Declarant, as the case may be. Further, the Declarant may from time to time delegate any and

all of its rights, powers, discretion and duties hereunder to such agent or agents as it may nominate.

Section 6. Special Exceptions and Variations. Unless the written consent of the Association is first obtained, no Owner shall file a request for zoning variations, special exceptions or zoning changes affecting or relating to land or improvements within the Property.

Section 7. Intentionally Omitted.

Section 8. Surface Water Management System. The Declarant has caused or will cause to be constructed a Surface Water Management System for Eagle Creek and the various Villages therein, including, but not limited to, drainage canals, lakes and drainage retention/detention ponds within the geographic area shown by the Land Use Plan. At Declarant's option, all permits or other approvals associated with the Surface Water Management System, including, but not limited to, SFWMD Permit No. 48-01290-P, Application No. 020528-14, a copy of which is attached hereto as Exhibit "G", may be transferred or assigned to the Association, and the Association shall be obligated to accept such transfer or assignment, as the operating entity with respect to such permits or approvals, and the entity ultimately responsible for all aspects of compliance therewith, including, without limitation, responsibility to complete any and all required wetlands mitigation, and all required maintenance and monitoring thereof, as may be required by any such permits or approvals. The Association shall have unobstructed ingress to and egress from all components of the Surface Water Management System at all reasonable times to maintain said ponds and lakes in a manner consistent with its responsibilities as provided in Article VII and any rules and regulations promulgated by the Association under authority thereof. No person whatsoever, including any Owner, shall cause or permit any interference with such access and maintenance. Should any Owner fail to sufficiently maintain any portion of the Surface Water Management System within its boundaries (or any portion of a surface water management system which connects with the Surface Water Management System) as required by this Declaration, the Association shall have the authority to maintain such portion and the cost of such maintenance shall be assessed against and become a debt of the Owner and shall become immediately due and payable as provided for other Assessments of the Association. Consequently, no Owner shall utilize, in any way, any of the Property drainage facilities or incorporate such facilities in the Owner's development plans, without the express prior written consent of the Declarant and the Association. Further, where an Owner is contiguous to any of the drainage facilities of the Property, the Owner shall prepare its site plan so that the utilization of its property will not adversely affect the drainage facilities and structures and so as to be aesthetically compatible with such drainage facilities and structures.

Section 9. Reclaimed Water. If an irrigation system capable of using reclaimed water for irrigation purposes is installed adjacent to a Parcel, and reclaimed water shall become available, then in such events, the Association shall: (i) require the Owner of each such Parcel to use the reclaimed water for irrigation purposes and (ii) charge a uniformly applied fee for the use of such reclaimed water.

Section 10. Enforcement. Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity and may be instituted by the Declarant, its successors or assigns, the Association, its successors or assigns or any Owner against any person

or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and against the land and to enforce any lien created by or pursuant to these covenants. Failure of any party to enforce any covenant, condition or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter. Further, the Association and Declarant shall have the right of self help to cure any violations that remain uncured after any required notice is given.

Section 11. Severability. Should any covenant, condition or restriction contained in, or any Article, Section, Sub-section, sentence, clause, phrase or term of, this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 12. Interpretation. The Board shall have the right, except as limited by any other provision of this Declaration or the Bylaws, to determine all questions arising in connection with this Declaration and to construe and interpret its provisions, and its good faith, determination, construction or interpretation shall be final and binding. In all cases, the provisions of this Declaration shall be given that interpretation or construction that will best lend toward the consummation of the general plan of improvements.

Section 13. Authorized Action. All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association as approved by the Board in the manner provided for in the Bylaws, unless the terms of this instrument provide otherwise.

Section 14. Termination. Should the Members of the Association vote not to renew and extend this Declaration as provided herein, or at any time that the Association is dissolved, the Association shall transfer to another not-for-profit homeowners association or appropriate public agency having similar purposes, all ownership, rights and other interests held at such time by the Association in the Common Property, including, but not limited to, the Surface Water Management System and the Conservation Areas. Any association to which that portion of the Common Property consisting of the Surface Water Management System or Conservation Areas is conveyed must meet the requirements of a "responsible entity" as required in Section 40E-4.361(3), Florida Administrative Code, and Section 9.0 of the Basis of Review for Environmental Resource Permit Applications within South Florida Water Management District-November 1996, and such entity must be approved in writing by the SFWMD prior to such conveyance. If no other association or agency will accept such property then it will be conveyed to a trustee appointed by the Circuit Court of Orange County, Florida, which trustee shall sell the Common Property free and clear of the limitations imposed hereby upon terms established by the Circuit Court of Orange County, Florida. That portion of the Common Property consisting of the Surface Water Management System and Conservation Areas cannot be altered, changed or sold separate from the lands associated therewith. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Property, then for the payment of any obligations incurred by the trustee in the operation, maintenance, repair and upkeep of the Common Property. The excess of proceeds, if

any, from Common Property shall be distributed among Owners in a proportion which is equal to the proportionate share of such Owner in Common Expenses.

Section 15. Execution of Documents. Development of Eagle Creek pursuant to the Eagle Creek DRI may require from time to time the execution of certain documents required by governmental authorities. To the extent that said documents require the joinder of Owners, the Declarant may, through its duly authorized officers, as the agent or the attorney-in-fact for the Owners, execute, acknowledge and deliver such documents. The Owners, by virtue of their acceptance of deeds or other conveyance instruments conveying title to any portion of the Property, irrevocably nominate, constitute and appoint the Declarant, through its duly authorized officers, as their proper and legal attorneys-in-fact for such purpose. Said appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section 15 of this Article XIX shall recite that it is made pursuant to this Section 15 of this Article XIX.

Section 16. Indemnification. To the full extent as permitted by applicable law, the Association shall indemnify every officer, director, and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee member shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member, or former officer, director, or committee member may be entitled. Upon approval of the Board, the Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 17. Prohibited Actions. Notwithstanding anything contained herein to the contrary, the Association will perform no act nor undertake any activity which will violate its not for profit status under applicable state or federal law.

Section 18. Singular, Plural and Gender. Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

Section 19. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of Eagle Creek.

Section 20. Notice. Any notices required to be given hereunder shall be given by either (i) personal delivery, (ii) certified mail, postage pre-paid, return receipt requested, or (iii)



overnight courier service that provides a receipt evidencing delivery of packages, such as Federal Express. The notices to be delivered to the Owners shall be sent to the addresses appearing in their respective recorded deeds, or at such other address as such Owner has provided to the Association. Notices to the Declarant shall be sent to the Declarant's address set forth in the initial paragraph of this Declaration, or, if applicable, to the address of any assignee of the Declarant's interest hereunder as set forth in any instrument recorded in the Public Records of Orange County, Florida. Notices to the Association shall be sent to the principal address of the Association as established in the records of the Secretary of State, State of Florida. Notices shall not be deemed to have been delivered to the intended addressee until same or actually delivered to the appropriate address as set forth above. Notwithstanding anything in the foregoing to the contrary, any notice required to be given hereunder to any Member may be given to such Member pursuant to any means authorized by the Association Act or the Bylaws. Notice to any one or more of any co-owners of a Parcel shall constitute notice to all Owners.

Section 21. Covenants Run With the Land. Each covenant, condition, restriction, easement and other provision contained herein shall be appurtenant to and for the benefit of the Property and shall be a burden thereon for the benefit of all the Property and shall run with the land. This Declaration and the covenants, conditions, restrictions and easements created hereby shall inure to the benefit of Declarant and its successors in title to any of Eagle Creek and shall be binding upon Declarant and its successors in title to any of the Property; provided, however, that if any Owner conveys fee simple title to the portion of the Property owned by such Owner, such Owner shall thereupon be released and discharged from any and all obligations as Owner in connection with such portion of the Property arising under this Declaration, the Articles of Incorporation and/or the Bylaws to be performed or arising after the conveyance of said fee simple title, but shall remain liable for all obligations arising prior to the conveyance of such title.

Section 22. Not a Public Dedication. Except as specifically stated in this Declaration, nothing herein shall be deemed to be a gift or dedication of any portion of the Property to the general public or for the general public or for any public purposes whatsoever, it being the intention of Declarant that this Declaration shall be strictly limited to and for the purposes herein expressed.

Section 23. Breach Shall Not Permit Termination. No breach of this Declaration shall entitle any Owner to cancel, rescind or otherwise terminate this Declaration, but such limitation shall not affect in any manner any other rights or remedies which such Owner may have hereunder by reason of any breach of this Declaration. Any breach of any of said covenants or restrictions, however, shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but such covenants or restrictions shall be binding upon and effective against such Owner of any of said Property or any portion thereof whose title thereto is acquired by foreclosure, trustee sale or otherwise.

Section 24. Attorneys' Fees. In the event of the institution of any legal proceedings for any violation or threatened violation of any of the terms, covenants, restrictions and conditions contained herein, or for the collection of any sums due and payable hereunder, or for the foreclosures of any liens provided for herein, the prevailing party shall be entitled to recover all reasonable costs and expenses incurred in connection with such litigation, specifically including, but not limited to reasonable attorneys' fees, which costs and fees shall also include

those caused by reason of any appellate proceeding, re-hearing or otherwise, from the non-prevailing party.

Section 25. Negation of Partnership. None of the terms or provisions of this Declaration shall be deemed to create a partnership between or among the Owners, Members, Association or Declarant, nor shall it cause them to be considered joint venturers or members of any joint enterprise. Each such entity shall be considered a separate entity and no such entity shall have the right to act as an agent for another unless expressly authorized to do so herein or by separate instrument signed by the parties to be charged.

Section 26. Non-Merger. Notwithstanding any applicable law or legal concept or theory, no interest, right, benefit, obligation, term, provision or covenant contained herein or established hereby shall be deemed to merge with any other interest, right, benefit, obligation, term, provision or covenant contained herein or established hereby. Notwithstanding any applicable legal principle or theory including, but not limited to, the principle generally known as "merger," the ownership of the entirety of the lands defined as the "Property" by the same party at the same time shall not result in or cause the termination of this Declaration and, likewise, ownership by the same party at the same time of both the benefitted and burdened lands associated with any of the easements created herein shall not result in or cause the termination of any of such easements.

**[INTENTIONALLY BLANK - SIGNATURE PAGES BEGIN ON NEXT PAGE]**

IN WITNESS WHEREOF, the Declarant has executed this Declaration the day and year indicated below.

WITNESSES:

"DECLARANT"

Sean Westcott  
Print Name: Sean Westcott

EAGLE CREEK DEVELOPMENT CORPORATION, a Florida corporation

Amanda Daugherty  
Print Name: Brandy Daugherty

By: [Signature]  
Joseph P. Pasqualetti, as its President

STATE OF FLORIDA

COUNTY OF SEMINOLE

I HEREBY CERTIFY that on this day personally appeared before me, Joseph P. Pasqualetti, as the President of Eagle Creek Development Corporation, a Florida corporation, to me well known to be the person described in and who executed the foregoing instrument and he acknowledged before me that he executed the same on behalf of the corporation.

WITNESS my hand and official seal this 2<sup>nd</sup> day of December, 2003.

[Signature]  
Notary Public, State of FLORIDA  
My commission expires: 12-02-05

(NOTARIAL SEAL)

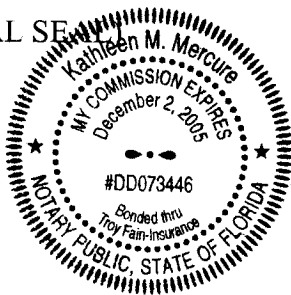


EXHIBIT "A"  
(Articles of Incorporation)

OCT-14-2003 13:33 FROM-

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ARTICLES OF INCORPORATION  
OF  
HOMEOWNERS ASSOCIATION OF EAGLE CREEK, INC.

FILED  
OCT 14 11 00  
STATE

ARTICLE I  
NAME

The name of this corporation shall be HOMEOWNERS ASSOCIATION OF EAGLE CREEK, INC. For convenience, the corporation shall be referred to in these Articles of Incorporation as the "Association."

ARTICLE II  
DURATION

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

ARTICLE III  
PURPOSE AND POWERS OF THE ASSOCIATION

The Association is organized for the purpose of enforcing, and fulfilling the objectives and purposes stated in, the Declaration of Covenants, Conditions, Easements and Restrictions For Eagle Creek ("Declaration") recorded in the Public Records of Orange County, Florida. Capitalized terms used herein without definition shall have the same meanings given to such terms in the Declaration. The Association shall have all the powers of a not for profit corporation organized under Chapter 617 of the laws of the State of Florida, subject, however, only to such limitations upon the exercise of such powers as are expressly set forth in these Articles of Incorporation, the Bylaws of the Association, the Declaration or the Association Act. The Association shall have the power and obligation to do any and all lawful things which may be authorized, assigned, required or permitted to be done by the Declaration, these Articles of Incorporation and the Bylaws of the Association, including, but not limited to, (i) the ownership and maintenance of all Common Property, including the Surface Water Management System and Conservation Areas, (ii) the levy and collection of Assessments against Members of the Association, (iii) the assumption and carrying out of all duties, obligations and liabilities of the Association for the Property as required pursuant to the Declaration, and (iv) to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the duties or powers of the Association as specified in the Declaration. Unless otherwise specifically prohibited, any and all functions, duties and powers of the Association shall be fully transferable in whole or in part. Any instrument affecting such a transfer shall specify the duration thereof and the means of revocation. The Association is not formed for pecuniary profit and the Association shall not pay dividends, and no part of any income or assets of the Association shall be distributed to its Members, directors or officers.

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**ARTICLE IV**  
**PRINCIPAL OFFICE**

The initial principal office and mailing address of the Association is located at c/o Eagle Creek Development Corporation, 370 Center Point Circle, Suite 1136, Altamonte Springs, Florida 32701.

**ARTICLE V**  
**REGISTERED OFFICE AND AGENT**

Eagle Creek Development Corporation, a Florida corporation, whose address is 370 Center Point Circle, Suite 1136, Altamonte Springs, Florida 32701, is hereby appointed the initial registered agent of the Association and the registered office shall be at said address.

**ARTICLE VI**  
**DISSOLUTION OF THE ASSOCIATION**

Upon dissolution of the Association, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner:

6.1. Real property contributed to the Association without the receipt of other than nominal consideration by the Class C Member (or its predecessor in interest) shall be returned to the Class C Member (whether or not a Class C Member at the time of such dissolution), unless it refuses to accept the conveyance (in whole or in part).

6.2. Conveyance to a not for profit corporation homeowners association similar to the Association or dedication to any applicable municipal or other governmental authority determined by the Board of Directors of the Association to be appropriate for such dedication, which authority is willing to accept such dedication, of any property and responsibilities of the Association, which association or governmental authority shall then be responsible for the operation and maintenance thereof. With respect to the Association's responsibility for the operation and maintenance of the Surface Water Management System and Conservation Areas, such obligation must be transferred to and accepted by an entity which satisfies the requirements of Section 40E-4.361(3), Florida Administrative Code, and be approved by the SFWMD prior to dissolution. If no other association or governmental authority will accept such property and responsibilities then it will be conveyed to a trustee appointed by the Circuit Court of Orange County, Florida, which trustee shall sell such property free and clear of the limitations imposed hereby upon terms established by the Circuit Court of Orange County, Florida. That portion of the property consisting of the Surface Water Management System and Conservation Areas cannot be altered, changed or sold separate from the lands associated therewith. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on

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such property, then for the payment of any obligations incurred by the trustee in the operation, maintenance, repair and upkeep of such property. The excess proceeds, if any, from the property shall be distributed among Members in a proportion that is equal to the proportionate share of such Members in the Common Expenses of the Association.

**ARTICLE VII**  
**MEMBERSHIP**

Every person or entity which qualifies as a Member of the Association in accordance with the Declaration shall be a Member of the Association, and such membership shall carry all rights, restrictions, benefits, interests and limitations granted pursuant to the Declaration, these Articles of Incorporation, the Bylaws of the Association, any rules and regulations promulgated by the Association, the Florida Not For Profit Corporation Act and the provisions of the Association Act.

**ARTICLE VIII**  
**VOTING RIGHTS**

A Member's right to vote shall vest immediately upon such Member's qualification for membership as provided in the Declaration and these Articles of Incorporation. All voting rights of a Member shall be exercised in accordance with and subject to the restrictions and limitations provided in the Declaration, these Articles of Incorporation, and the By-Laws of the Association, including, but not limited to, the following:

8.1. The Association shall have three (3) classes of voting as follows:

Class A. Class A Members shall be all Owners of Lots, with the exception of the Declarant (prior to Turnover). For purposes of electing Village Representatives only, Class A Members shall be allocated one vote for each Lot in which they hold the interest required for membership in the Association pursuant to Section 1 above. Class A Members shall otherwise have no voting rights.

Class B. Class B Members shall be Owners of Villages, other than the Declarant (prior to Turnover), that has not been subdivided or platted into Lots. It is contemplated, but not required, that Class B Members shall be builders or developers who purchase an unsubdivided Village from Declarant with the intention of platting the Village into Lots. Class B Members shall be allocated one vote for each Village. Class B Members shall automatically become Class A Members as to the Lots created upon subdivision or plating.

Class C. The Class C Member shall be the Declarant, or its specifically designated (in writing) successor. The Class C Member shall be allocated a number of votes equal to three times the total number of (i) votes attributable to Village Representatives of Class A Members and (ii) Class B votes at any given time; provided, however, that Class C

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membership shall cease and become converted to Class A or B membership, as appropriate, upon Turnover of the Association as set forth in Article XIII of the Declaration.

As and to the extent provided in the Declaration, any vote of the Members pertaining to Limited Common Property shall be decided by a vote of only those Members of the Association that have been identified by Declarant as being authorized and entitled to utilize and realize the benefits of the Limited Common Property.

8.2. Notwithstanding anything in the foregoing provisions of this Article VIII or the Bylaws of the Association to the contrary, and without regard to the number of votes allocated to the Declarant, the Declarant shall have the power at all times while the Declarant holds fee simple title to at least five percent (5%) of the sum of the existing and future Lots that will ultimately be governed by the Association, exercisable in Declarant's sole discretion, to elect at least one (1) director to the Board of Directors of the Association. Nothing contained in the foregoing, however, is intended, nor shall be deemed, to create any obligation upon the Declarant to exercise such right to elect such one (1) director.

8.3. Notwithstanding anything to the contrary in the foregoing provisions of this Article VIII, voting of Members, other than the Declarant prior to Turnover, on all Association matters shall be conducted by and through Village Representatives and the Village Representative process established in this Section 8.3 of this Article VIII.

A. Declarant shall designate in writing the identification of the various Villages within the Property, and the specific identification of the Lots designated as being included within such Villages. Each Lot within the Property shall be included within a Village. Until such time as Declarant has divested itself of title to all of Eagle Creek, Declarant shall have the unilateral right, without the necessity of obtaining the approval of any party, including any Owner, to redesignate the composition of the Villages established pursuant to this Section 8.3, including increasing or decreasing the number of such Villages. It shall not be necessary that the Lots designated to a particular Village be contiguous, or that each Village have included within it the exact same number of Lots, but Declarant shall, to the extent reasonably practicable, use its best efforts to allocate such numbers of Lots to each Village as to most fairly allocate between the Villages the voting interests of all Members of the Association. The written designations by Declarant of the Villages, as described above, as well as the identification of the Village Representative for each Village, as described below, shall be maintained by the Association along with the other records of the Members of the Association, which records shall be open for inspection and copying by the Members of the Association pursuant to the applicable provisions of the Bylaws of the Association.

B. The Members, other than the Declarant prior to Turnover, owning Lots within any designated Village shall elect a Village Representative. Once elected by Members with respect to a Village, a Village Representative shall be entitled, and shall have the exclusive authority, to represent the Members that own Lots within such Village as to all matters that may be brought before the Membership of the Association pursuant to the Declaration, the Articles of

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Incorporation and Bylaws, including, but not limited to, the casting of all votes attributable to the Members owning the Lots within such Village. Each Village Representative shall have one vote for each Village represented by such Village Representative. The Village Representative shall have absolute discretion as to the exercise of the membership rights and votes attributable to the Members owning Lots within the Village represented by such Village Representative.

C. Village Representatives shall be elected by the Members owning Lots within a Village by a plurality of the votes of such Members under a straight voting method. Voting for a Village Representative shall occur at an annual meeting of the Members within such Village, which meeting shall be held prior to the annual meeting of Members of the Association. The conduct of any meeting of Members of a Village shall be consistent with and governed by the terms and provisions of meetings of the Members of the Association as established in the Bylaws. Village Representatives shall serve a term of one (1) year and until their successors shall have been elected and qualified or until their earlier resignation, removal from office or death. Village Representatives may be removed from office, with or without cause, upon the vote of a majority of the Members owning Lots within the Village for which such Village Representative was appointed, which vote shall occur at a Special Meeting of such Members held for the purpose of removing such Village Representative.

8.4. Unless elsewhere specifically provided to the contrary in the Declaration or these Articles of Incorporation, any provision of these Articles of Incorporation which requires the vote or approval of a majority or other specified fraction or percentage of the total voting power of the Association, shall be deemed satisfied by either of the following:

A. The vote in person or by proxy of the majority or other specified fraction or percentage of the total voting power of the Association at a meeting duly called and noticed pursuant to the provisions of the Bylaws of the Association dealing with annual or special meetings of the Members of the Association.

B. Written consents signed by the majority or other specified fraction or percentage of the total voting power of the Association; provided, however, that a Village Representative shall not vote by proxy.

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**ARTICLE IX**  
**BOARD OF DIRECTORS**

The affairs of the Association shall be managed by a Board of Directors who shall be elected by the Members pursuant to the provisions of the Declaration and these Articles of Incorporation and following the procedures set forth in the Bylaws of the Association. The number of directors constituting the initial Board of Directors shall be three (3). The number of directors may be increased or decreased from time to time in accordance with the Bylaws, but shall never be less than three (3) nor more than seven (7), and shall always be an odd number (i.e. 3, 5, 7). Any increase or decrease in the number of directors shall require the affirmative vote of a majority of the voting interests of the Members at any Special Meeting of the Members called for the purpose of changing the number of directors of the Association. So long as there shall be a Class C Member, Directors need not be Members of the Association and need not be residents of the State of Florida; thereafter, all Directors, other than Director elected by the Declarant pursuant to Section 8.2. of these Articles of Incorporation, shall be Class A Members of the Association or designated representatives of Class B Members of the Association, and residents of the State of Florida. The term of office of the initial directors of the Association shall expire at the first meeting of Members at which directors are elected. The terms of office of all other directors will expire at the next annual meeting of Members following the election of such directors. Despite the expiration of a director's term, the director will continue to serve until a successor is elected and qualifies or until there is a decrease in the number of directors. Any director may be removed from office at any time, with or without cause, by the affirmative vote of a majority of the Members. The names and addresses of the persons who are to act in the capacity of initial directors until the election and qualification of their successors are:

<u>Name</u>	<u>Address</u>
Joseph Pasqualetti	Emerson International 370 Center Pointe Circle, Suite 1136 Altamonte Springs, Florida 32701
Neil Kynaston	Emerson International 370 Center Pointe Circle, Suite 1136 Altamonte Springs, Florida 32701
Gary Piotrowski	Emerson International 370 Center Pointe Circle, Suite 1136 Altamonte Springs, Florida 32701

**ARTICLE X**  
**OFFICERS**

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The affairs of the Association shall be administered by the officers designated in the Bylaws. The officers shall be elected by the Board of Directors at its first meeting, and they shall serve at the pleasure of the Board of Directors.

**ARTICLE XI**  
**AMENDMENT**

These Articles of Incorporation may be changed, amended or modified, at any time and from time to time, by the Members, as and to the extent provided in, and pursuant to the procedures set forth in, the Declaration.

**ARTICLE XII**  
**INDEMNIFICATION**

12.1. Every director and every officer of the Association and every Village Representative shall be indemnified by the Association against all expenses and liabilities, including attorneys' and other professionals' fees, reasonably incurred by or imposed upon him in connection with any proceeding whether civil, criminal, administrative or investigative, or any settlement of any proceeding, or any appeal from such proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer of the Association or Village Representative, or having served at the Association's request as a director or officer of any other corporation, whether or not he so serves the Association at the time such expenses are incurred, regardless of by whom the proceeding is brought, except in relation to matters as to which any such director or officer or Village Representative shall be adjudged liable for gross negligence or willful misconduct, provided that in the event of a settlement, the indemnification shall apply only when the Board of Directors of the Association approves such settlement and reimbursement as being for the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

12.2. Expenses incurred in defending a suit or proceeding whether civil, criminal, administrative or investigative may be paid by the Association in advance of the final disposition of such action, suit or proceeding if authorized by a majority of the directors upon receipt of an undertaking by or on behalf of the director or officer to repay such amount if it shall ultimately be determined that he is not to be indemnified by the Association as authorized by these Articles of Incorporation.

12.3. The Association shall have the power to purchase at its expense and maintain insurance on behalf of any person who is or was a director or officer of the Association or Village Representative, or is or was serving at the request of the Association as a director or officer of another corporation, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of these Articles.

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**ARTICLE XIII**  
**BYLAWS**

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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 in the Bylaws.

**ARTICLE XIV**  
**INCORPORATOR**

The name and address of the Incorporator of this corporation is as follows:

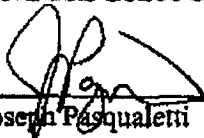
<u>Name</u>	<u>Address</u>
Joseph Pasqualetti	Emerson International 370 Center Pointe Circle, Suite 1136 Altamonte Springs, Florida 32701

**ARTICLE XV**  
**NON-STOCK CORPORATION**

The Association is organized on a non-stock basis and shall not issue shares of stock evidencing membership in the Association; provided, however, that membership in the Association may be evidenced by a certificate of membership which shall contain a statement that the Association is a corporation not for profit.

IN WITNESS WHEREOF, the undersigned has signed this Articles of Incorporation this \_\_\_ day of October, 2003.

"INCORPORATOR"

  
\_\_\_\_\_  
Joseph Pasqualetti

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**CERTIFICATE DESIGNATING REGISTERED AGENT  
FOR SERVICE OF PROCESS**

Pursuant to the provisions of Chapters 48 and 617, Florida Statutes, the corporation identified below hereby submits the following statement in designation of the Registered Office and Registered Agent in the State of Florida.

HOMEOWNERS ASSOCIATION OF EAGLE CREEK, INC., desiring to organize as a corporation under the laws of the State of Florida, with its registered office at 370 Center Point Circle, Suite 1136, Altamonte Springs, Florida 32701, has named Eagle Creek Development Corporation, located at the above-registered office, as its Registered Agent to accept service of process within this State.

**ACKNOWLEDGMENT**

Having been named as Registered Agent for the above-stated corporation at the place designated in this Certificate, I hereby acknowledge that I am familiar with the obligations of a registered agent under the laws of the State of Florida and accept to act as Registered Agent for the above-stated corporation and agree to comply with the provisions of all laws applicable to the performance of such office.

EAGLE CREEK DEVELOPMENT  
CORPORATION, a Florida corporation

By:   
Joseph Pasqualetti, as its President

Dated: October 10, 2003

FILED  
03 OCT 14 AM 9:00  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**EXHIBIT "B"**

**BYLAWS OF  
HOMEOWNERS ASSOCIATION OF EAGLE CREEK, INC.  
A NOT FOR PROFIT CORPORATION**

1. Definitions. Unless otherwise indicated to the contrary, all capitalized terms used herein without definition shall have the meaning given such term in the Declaration of Covenants, Conditions, Easements and Restrictions For Eagle Creek ("Declaration") or the Articles of Incorporation of Homeowners Association of Eagle Creek, Inc. ("Articles of Incorporation"). For ease of reference, Homeowners Association of Eagle Creek, Inc. shall hereinafter be referred to as the "Association".

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

3. Seal. The seal of the Association shall bear the name of the Association, the word "Florida", the words "Not For Profit Corporation", and the year of incorporation.

4. Members.

4.1. Membership and Voting Rights. Entitlement to membership in, and the voting rights of each Member of, the Association shall be as set forth in the Declaration and the Articles of Incorporation, and the manner of exercising such voting rights shall be as set forth therein and in these Bylaws.

4.2. Designation of Voting Authorization. If a Member is constituted to be more than one person or entity, any vote by said Member, or the identity of the person or entity authorized to cast such vote along with the extent of such person's or entity's authority, shall be designated by a certificate (a "Certificate of Authority") signed by all persons constituting the Member and filed with the Secretary of the Association. If a Member is an entity other than a natural person (*i.e.*, corporation, limited liability company, or general or limited partnership), a Certificate of Authority must be signed by an authorized representative of such entity (*i.e.*, President, managing member, general or limited partner) and filed with the Secretary of the Association. If the land of the Member is owned in trust, a Certificate of Authority must be signed by the trustee of record for the trust and filed with the Secretary of the Association. A Certificate of Authority shall be valid until revoked or until superseded by a subsequently filed Certificate of Authority. A Certificate of Authority may be revoked in writing by the Member who submitted the certificate.

4.3. Transfer of Membership. The rights of each Member shall be appurtenant to his or her ownership of a Lot, as specified in the Declaration, may not be separated from such ownership, and shall automatically pass to the successors and assigns (including mortgagees) of a Member upon the recordation of the change in ownership of the Lot in the Public Records of Orange County, Florida and in the records of the Association.

5. Members Meetings.

5.1. Annual Members Meetings. The annual meeting of the Members of this Association shall be held at such place, at such time and on such date each year as is from time to time designated by the Board of Directors, for the purpose of electing directors and transacting any business authorized to be transacted by the Members. Failure to hold an annual meeting timely shall in no way affect the terms of officers or directors of the Association or the validity of actions of the Association.

5.2. Special Members' Meetings. Special meetings of the Members may be called by any one of the following persons or groups:

- (a) The President,
- (b) A Majority of The Board of Directors, or
- (c) Members representing not less than ten percent (10%) of total voting power of the Association.

5.3. Village Representatives. Notwithstanding anything to the contrary in the foregoing provisions of this Section 5, or elsewhere in these Bylaws, voting at any meeting of the Members of this Association shall be by the Village Representatives, pursuant to the Village Representative process established in the Declaration. Annual and special meetings of Members that are owners of Lots designated to a Village shall be held at such time as is required in the Declaration, and at such other times and upon such conditions as special meetings of the Members may be called pursuant to Section 5.2 above except that in lieu of Sub-Section 5.2.(c), special meetings of the Members of a Village may be called by Members representing not less than ten percent (10%) of the total voting power of Members of such Village. Matters pertaining to such Village, including, but not limited to, the calling, notice and conduct of such meetings, shall be as set forth in the remaining Sub-Sections of this Section 5.

5.4. Notice of Meetings. Written notice stating the place, day, and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered to each Member entitled to vote at such meeting not less than ten (10) nor more than thirty (30) days before the date of the meeting, either personally or by first-class mail, by or at the direction of the President, the Secretary, or the officer or persons calling the meeting. If the notice is mailed at least twenty (20) days before the date of the meeting, it may be done by a class of United States mail other than first class. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member at its address as it appears on the books of the Association, with proper postage thereon prepaid. It shall not be necessary to provide notice to Members of meetings at which only Village Representatives shall be entitled to cast votes.

5.5. Defects in Notice, Etc. Waived by Attendance. A Member may waive any notice required by these Bylaws before or after the date and time stated in the notice. The waiver must be in writing, signed by the Member entitled to the notice, and be delivered to the Association for the inclusion in the minutes or filing with the Association records. A Member's attendance at the meeting waives objection to lack of notice or defect of notice of the meeting,

unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting. A Member's attendance at a meeting also serves to waive objection to the consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Member objects to the consideration of the matter when it is presented.

5.6. Quorum. Except as provided otherwise in the Articles of Incorporation or the Declaration, a quorum at meetings shall consist of thirty percent (30%) of the total voting power in the Association, whether represented in person or by proxy. Subject to any contrary provision or requirement contained in the Declaration, if a quorum is present, the affirmative vote of a majority of votes represented at a meeting and entitled to vote on the subject matter shall constitute the acts of the Members, except when approval by a greater vote is required by the Declaration, the Articles of Incorporation, these Bylaws, or by law. When a specified item of business is required to be voted upon by a particular class of Members, a majority of the votes of such class of Members shall constitute a quorum for the transaction of such item of business by that class, unless provided to the contrary in the Articles of Incorporation or the Declaration. After a quorum has been established at a meeting, the subsequent withdrawal of a Member or Village Representative so as to reduce the number of votes at the meeting below the number required for a quorum shall not affect the validity of any action taken at the meeting or any adjournment thereof.

5.7. Proxies. The Village Representatives may not vote by proxy, such representatives must, instead, vote in person or through their designated alternates. Every Member entitled to vote at a meeting of Members, or his duly authorized attorney-in-fact, may authorize another person or persons to act for him by proxy with respect to specified matters of business. Members may not grant general proxies to vote their membership interests but general proxies may be used to establish a quorum. Every proxy must be signed by the Member or his attorney-in-fact. A proxy shall be effective only for the specific meeting for which originally given and any and all lawfully adjourned meetings thereof. No proxy shall be valid after the expiration of ninety (90) days from the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the Member executing it and shall expire upon the transfer of title to the Lot giving rise to the voting rights to which the proxy pertains. The authority of the holder of a proxy to act shall not be revoked by the incompetence or death of the Member who executed the proxy unless, before the authority is exercised, written notice of an adjudication of such incompetence or of such death is received by the Secretary of the Association or such other officer responsible for maintaining the list of Members.

5.8. Adjourned Meetings. When a meeting is adjourned to another time or place, it shall not be necessary to give any notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and any business may be transacted at the adjourned meeting that might have been transacted on the original date of the meeting. If, however, after the adjournment the Board fixes a new record date for the adjourned meeting, a notice of the adjourned meeting shall be given in compliance with these Bylaws to each Member entitled to vote at such meeting as of the new record date.

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

- (a) Calling of the roll and certifying of proxies.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading and disposal of any unapproved minutes.
- (d) Reports of officers.
- (e) Reports of committees.
- (f) Appointment of directors.
- (g) Unfinished business.
- (h) New business.
- (i) Adjournment.

6. Board of Directors.

6.1. Number, Election and Term. The affairs of the Association shall be managed by a Board of Directors consisting of not less than three (3) directors. The initial Board shall be comprised of three (3) directors and shall include those persons named in the Articles of Incorporation. The number of directors may be increased or decreased from time to time as stated in the Articles of Incorporation, but shall never be less than three (3) nor more than seven (7), and shall always be an odd number (i.e., 3, 5, 7). No decrease in the number of directors shall have the effect of shortening the terms of any incumbent director. The directors shall be elected at the annual meeting of Members and at each annual meeting thereafter, by a plurality of the votes cast at such election using a straight voting method for each seat on the Board of Directors to be filled, and shall hold office until the next succeeding annual meeting. Each director shall hold office for the term for which he is elected and until his successor shall have been elected and qualified, until there is a decrease in the number of directors, or until his earlier resignation, removal from office or death.

6.2. Removal. Any director may be removed from office pursuant to the procedures set forth below:

- (a) Any member of the Board of Directors may be removed with or without cause by the vote or agreement in writing by a majority of all votes of the Members; provided, however, that a member of the Board of Directors elected by the Declarant pursuant to its rights under Section 8.2 of the Articles of Incorporation, may only be removed without cause by the Declarant and any such member of the Board of Directors appointed by the Declarant and so removed shall be replaced only by another director appointed by Declarant pursuant to its rights under such Section 8.2 of the Articles of Incorporation.



- (b) The notice of a meeting to recall a member or members of the Board of Directors shall state the specific director sought to be removed.
- (c) A proposed removal of a director at a meeting shall require a separate vote for each director sought to be removed where removal is sought by written agreement, a separate agreement is required for each director to be removed.
- (d) If removal is effectuated at a meeting, any vacancy created thereby shall be filled by vote of the Members at the same meeting.
- (e) Any director who is removed from the Board shall not be eligible to stand for re-election until the next annual meeting of the Members.
- (f) Any director removed from the Board shall turn over to the Board of Directors within seventy-two (72) hours any and all records of the Association in his or her possession.
- (g) If a director who is removed does not relinquish his office or turn over records as required under this section, the Association or any Member may petition the Circuit Court in the county where the Association's principal office is located to summarily order the director to relinquish his or her office and turn over Association records.

6.3. Directors Fees. Directors shall serve without compensation or fees; provided, however, nothing herein shall be deemed to prevent reimbursement of out-of-pocket expenses approved by the Board and incurred on behalf of the Association.

6.4. Vacancy. Any vacancy occurring on the Board of Directors shall be filled by the Members in accordance with the Articles of Incorporation and these Bylaws.

A director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of the predecessor in office. Any seat on the Board of Directors to be filled by reason of an increase in the number of directors may be filled by the Board of Directors, but only for a term of office continuing until the next election of directors by the Members or, if the Association has no Members or no Members having the right to vote thereon, for such term of office as is provided in the Articles of Incorporation.

A vacancy that will occur at a specific later date, by reason of a resignation effective at such later date, may be filled before the vacancy occurs. However, the new director may not take office until the vacancy occurs.

7. Meetings of Directors.

7.1. Regular Meetings. Regular meetings of the Board of Directors shall be held at least quarterly without notice to directors at such place and hour as may be fixed from time to time by resolution of the Board; provided that no such meeting shall be scheduled on any day that is a legal holiday. Regular meetings of the Board of Directors shall be open to the Members. Notice of such meeting shall be posted in a conspicuous place on the Property at least 48 hours in advance of such meeting, or mailed or delivered to each Member at least seven (7) days before the meeting, except in cases of emergency. In the event that the number of Members of the Association exceeds one hundred (100), then in lieu of the foregoing notice provisions, notice of such meetings may be made by providing to each Member a schedule of board meetings for any calendar year. Notice of any meeting in which Assessments against parcels are to be established shall specifically contain a statement that Assessments shall be considered and a statement of the nature of such Assessments.

7.2. Special Meetings. Special meetings of the directors may be called by the President of the Association or by any director. Not less than forty-eight (48) hours' notice of the special meeting shall be given to each director, which notice shall state the date, time, place and purpose of the meeting. All special meetings of the Board of Directors shall be open to the Members. Notice of such meeting shall be posted in a conspicuous place on the Property at least 48 hours in advance of such meeting, or mailed or delivered to each Member at least seven (7) days before the meeting, except in cases of emergency. In the event that the number of Members of the Association exceeds one hundred (100), then in lieu of the foregoing notice provisions, notice of such meetings may be made by providing to each Member a schedule of board meetings for any calendar year. Notice of any meeting in which Assessments against parcels are to be established shall specifically contain a statement that Assessments shall be considered and a statement of the nature of such Assessments.

7.3. Defects in Notice, etc. Waived by Attendance. Notice of a meeting of the Board of Directors need not be given to any director who signs a waiver of notice either before or after the meeting. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when a director states, at the beginning of the meeting or promptly upon arrival at the meeting, any objection to the transaction of business because the meeting is not lawfully called or convened.

7.4. Telephone Participation. Members of the Board of Directors may participate in Board meetings by means of a conference telephone, or similar communications equipment, by means of which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at such meeting.

7.5. Quorum. A quorum at directors meetings shall consist of a majority of all votes of the entire Board of Directors. The acts approved by a majority of those votes represented at a meeting at which a quorum is present shall constitute the act of the Board of Directors, except where approval by a greater number of directors is required by the Declaration, the Articles of Incorporation, or these Bylaws.

7.6. Adjourned Meetings. A majority of the directors present, whether or not a quorum exists, may adjourn any meeting of the Board of Directors to another time and place. Notice of any such adjourned meeting shall be given to the directors who were not present at the

time of the adjournment and, unless the time and place of the adjourned meeting are announced at the time of the adjournment, to the other directors.

7.7. Presiding Officer. The presiding officer of directors meetings shall be the President. In the absence of the President, the Vice President shall preside, and in the absence of both, the directors present shall designate one of their number to preside. Attendees at director's meetings other than directors may not participate in any discussion or deliberation unless permission to speak is requested on their behalf by a director. In such case, the presiding officer may limit the time any such individual may speak.

7.8. Powers and Duties of Board of Directors. All of the powers and duties of the Association existing under Chapter 617, Florida Statutes, the Declaration, the Articles of Incorporation, these Bylaws, and the Association Act shall be exercised by the Board of Directors, subject only to approval by Members when such is specifically required.

## 8. Officers.

8.1. Officers and Election. The officers of the Association shall be a President, who shall be selected from the Board of Directors, a Vice President, a Treasurer, and a Secretary, all of whom shall be elected annually by the Board of Directors and each of whom may be removed by vote of the directors at any meeting with or without cause. Any person may hold two or more offices except that the President shall not also be the Secretary. The Board of Directors shall from time to time elect such other officers and designate their powers and duties as the Board shall find necessary or convenient to manage properly the affairs of the Association.

8.2. President. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of President of an Association, including but not limited to the power to appoint committees from among the Members from time to time as he may in his discretion determine appropriate to assist in the conduct of the affairs of the Association. He shall serve as chairman of all Board and Members' meetings.

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

8.4. Secretary. The Secretary shall keep the minutes of all proceedings of the directors and the Members. He shall attend to the giving and serving of all notices to the Members and directors and other notices required by law. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an Association and as may be required by the directors or the President. The duties of the Secretary may be fulfilled by a manager employed by the Association.

8.5. Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the books of the Association in accordance with good accounting practices and provide for collection of

assessments; and he shall perform all other duties incident to the office of Treasurer. The duties of the Treasurer may be fulfilled by a manager employed by the Association.

8.6. Compensation. Officers shall serve without compensation or fees; provided, however, nothing herein shall be deemed to prevent reimbursement of out-of-pocket expenses approved by the Board and incurred on behalf of the Association.

9. Books and Records.

9.1. The Association shall keep as records minutes of all meetings of its Members and Board of Directors, a record of all actions taken by the Members or Board of Directors without a meeting, and a record of all actions taken by a committee of the Board of Directors in place of the Board of Directors on behalf of the Association and shall maintain such records for at least seven (7) years. The Association shall maintain accurate accounting records, kept in accordance with good accounting practices, and shall maintain such records for at least seven (7) years. The Association shall also maintain a record of its Members in a form that permits preparation of a list of the names and address of all Members in alphabetical order by class of voting Members, and shall keep such records in written form or in other form capable of conversion into writing within a reasonable time. The Association shall also keep a copy of the following records at its principal office:

- (a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the Common Property or other property that the Association is obligated to maintain, repair or replace.
- (b) A copy of its Articles or restated Articles of Incorporation and all amendments currently in effect,
- (c) A copy of its Bylaws or restated Bylaws and all amendments currently in effect.
- (d) A copy of the Declaration and all amendments currently in effect.
- (e) Written communications to all Members generally or all Members of a class within the past three (3) years, including all financial statements furnished for the past three (3) years.
- (f) A list of the names and business street, or home if there is no business, addresses of its current directors, officers, and Village Representatives.
- (g) Its most recent annual report delivered to the Department of State.
- (h) A copy of the current Architectural Guidelines and other rules of the Association.
- (i) A current roster of all Members and their mailing addresses, parcel identifications and if known telephone numbers.

- (j) All current insurance policies of the Association or a copy thereof.
- (k) A current copy any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Members have an obligation or responsibility. The Association shall also keep for a period of one (1) year all bids received by the Association for work to be performed on behalf of the Association.

9.2. A Member of the Association may inspect and copy, during regular business hours at the Association's principal office, any of the records of the Association set forth in 9.1 above, if such Member gives the Association written notice of the demand to inspect at least ten (10) business days before the date on which the Member wishes to inspect and copy. All other records of the Association will be available for inspection in accordance with the provisions of applicable Florida law. The Association may impose a reasonable charge for the cost of copies of all documents to be provided pursuant to the provisions of this section 9.2.

10. Fiscal Management. The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions.

10.1. Accounts. The receipts and expenditures of the Association shall be credited and charged to accounts under the following classifications and any other classifications as shall be appropriate, when authorized and approved by the Board of Directors. The receipts shall be entered by the amounts of receipts by accounts and receipt classifications, and expenses by the amounts of expenses by accounts and expense classifications.

- (a) Current Expense. The current expense account shall include all receipts and expenditures to be made within the year for which the expenses are budgeted and may include a reasonable allowance for contingencies and working funds. The balance in this fund at the end of each year shall be applied to reduce the assessments for current expense for the succeeding year or to fund reserves. This may include but not be limited to:
  - (1) Professional, administration and management fees and expenses;
  - (2) Taxes on common property;
  - (3) Expenses for utility services and maintenance expense relating to the common property;
  - (4) Insurance costs;
  - (5) Administrative and salary expenses;
  - (6) Operating capital; and
  - (7) Other expenses.

- (b) Reserve for Deferred Maintenance. If required by the Board of Directors, there shall be established a reserve account for deferred maintenance which shall include funds for major maintenance items which are the obligation of the Association and which occur less frequently than annually.
- (c) Reserve for Replacement. If required by the Board of Directors, there shall be established a reserve account for replacement which shall include funds for repairs or replacements which the Association is obligated to make resulting from damage, depreciation or obsolescence.
- (d) Gated Community Required Accounts. The Association shall establish and maintain the Gated Community Required Accounts as and to the extent required by the Gated Communities Code and the Declaration, and monies held in such accounts shall be held and disbursed as more specifically set forth in the Declaration.

10.2. Budget. The Board of Directors shall adopt such budgets as are required by the Declaration.

10.3. Assessments. Assessments against the Owners for their shares of the items of the operating budget shall be made in accordance with the provisions of the Declaration.

10.4. Depository. The depository of the Association will be such banks in Orange County, Florida, as shall be designated from time to time by the directors and the withdrawal of monies from such accounts shall be only by checks signed by such persons as authorized by the directors; provided, however, that the provisions of a management agreement between the Association and a manager relative to the subject matter of this section shall supersede the provisions hereof.

11. Parliamentary Rules. Roberts' Rules of Order (latest edition) shall govern the conduct of Association meetings, when not in conflict with the Florida Not for Profit Corporation Act, the Declaration, the Articles of Incorporation or these Bylaws.

12. Access to Common Property and Recreational Facilities. All Common Property serving the Association shall be available, subject to all restrictions set forth in the Declaration or in any rules and regulations adopted by the Association, to Members of the Association and their invited guests for the use intended to such Common Property. The Association may adopt reasonable rules and regulations pertaining to the use of such Common Property. Members shall have the right to peaceably assemble, or invite public officers or candidates for public office to appear and speak, in Common Property subject to reasonable rules and regulations adopted by the Association. Notwithstanding anything in the foregoing to the contrary, access to Limited Common Property shall be limited to those Members, and their invited guests, who are Owners of The Lot to which the use of such Limited Common Property has been reserved and dedicated.

13. Amendment. These Bylaws may be changed, amended or modified, at any time and from time to time, by the Members, as and to the extent provided in, and pursuant to the procedures set forth in, the Declaration.

14. Pronouns. Whenever the context permits, the singular shall include the plural and one gender shall include all.

**EXHIBIT "C"**  
**(Legal Description of Villages A, B and C of Eagle Creek)**

A PARCEL OF LAND LYING IN SECTION 29, TOWNSHIP 24 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

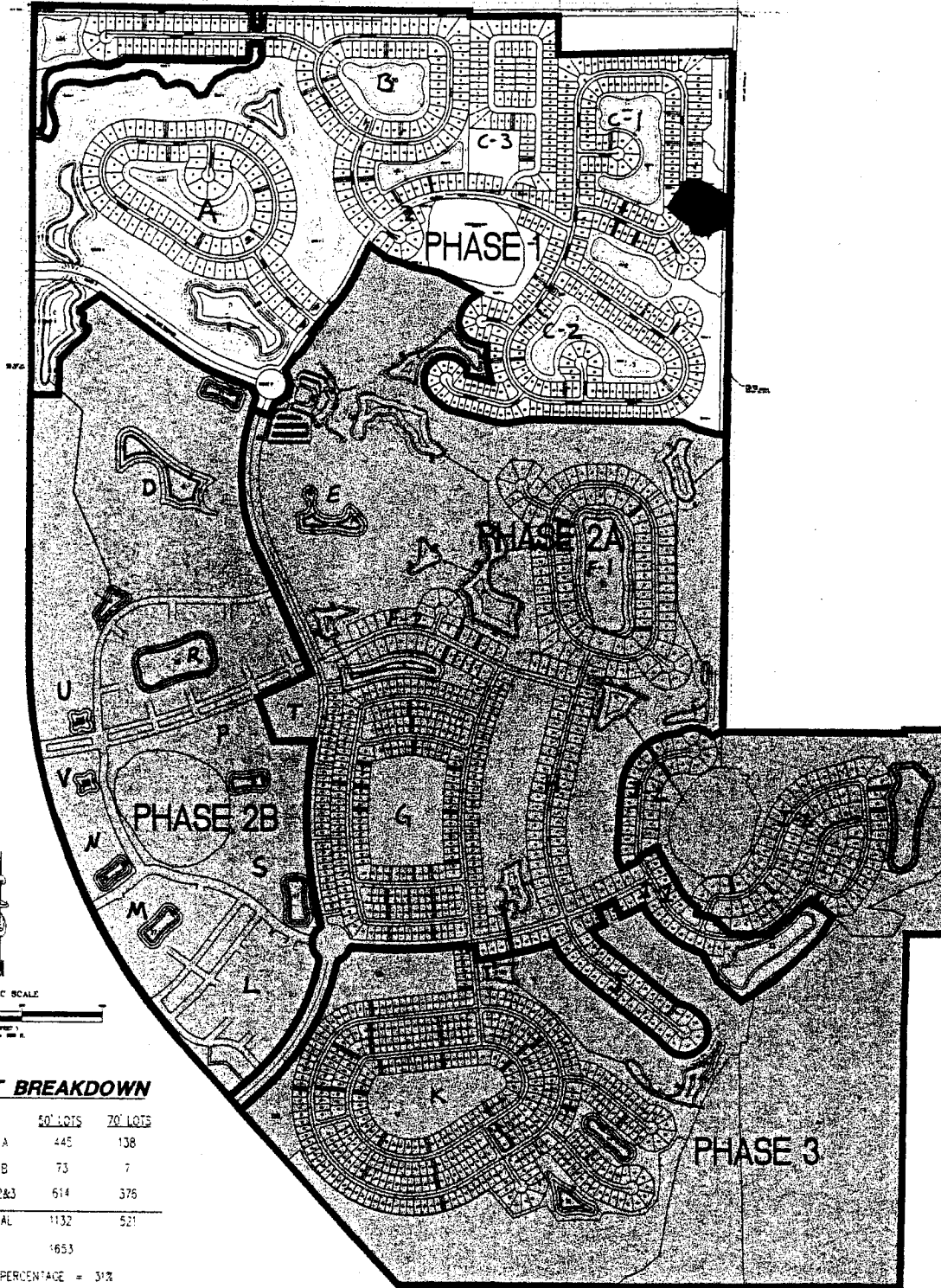
COMMENCE AT THE NORTHWEST CORNER OF SECTION 29, TOWNSHIP 24 SOUTH, RANGE 31 EAST, THENCE S89°29'59"E, ALONG THE NORTH LINE OF THE NORTHWEST ONE-QUARTER (1/4) OF SAID SECTION 29, A DISTANCE OF 48.00 FEET TO THE POINT OF BEGINNING; SAID POINT ALSO BEING THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF TYSON ROAD AS RECORDED IN DEED BOOK 808, PAGE 163, ORANGE COUNTY, FLORIDA, PUBLIC RECORDS AND THE EAST RIGHT OF WAY LINE OF NARCOOSSEE ROAD AS RECORDED IN OR BOOK 6495, PAGE 2755, ORANGE COUNTY, FLORIDA PUBLIC RECORDS, THENCE CONTINUE ALONG THE NORTH LINE OF THE NORTHWEST ONE-QUARTER (1/4) OF SAID SECTION 29, SAME BEING THE SOUTH RIGHT OF WAY LINE OF SAID TYSON ROAD, S89°29'59"E, A DISTANCE OF 2,603.93 FEET, TO THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER (1/4) OF SAID SECTION 29; THENCE ALONG THE NORTH LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 29, SAME BEING THE SOUTH RIGHT OF WAY LINE OF SAID TYSON ROAD, S89°59'31"E, A DISTANCE OF 667.43 FEET; THENCE S00°33'00"W, A DISTANCE OF 1,331.91 FEET; THENCE S89°40'58"E, A DISTANCE OF 662.25 FEET; THENCE N00°37'10"E, A DISTANCE OF 1,010.31 FEET; THENCE N88°29'23"E, A DISTANCE OF 1,297.60 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF KIRBY SMITH ROAD; THENCE ALONG SAID WEST RIGHT OF WAY LINE THE FOLLOWING TWO COURSES, S00°45'25"W, A DISTANCE OF 2,394.98 FEET; THENCE S00°42'34"W, A DISTANCE OF 439.07 FEET; THENCE N90°00'00"W, A DISTANCE OF 80.18 FEET; THENCE N74°54'36"W, A DISTANCE OF 145.94 FEET; THENCE N64°40'15"W, A DISTANCE OF 119.01 FEET; THENCE N89°17'41"W, A DISTANCE OF 961.23 FEET; THENCE N00°42'19"E, A DISTANCE OF 115.00 FEET; THENCE N89°17'41"W, A DISTANCE OF 26.00 FEET; THENCE S00°42'19"W, A DISTANCE OF 115.59 FEET; THENCE N89°17'41"W, A DISTANCE OF 150.00 FEET; THENCE S79°10'43"W, A DISTANCE OF 128.24 FEET; THENCE S81°50'39"W, A DISTANCE OF 42.63 FEET; THENCE S89°22'22"W, A DISTANCE OF 33.75 FEET; THENCE N83°05'42"W, A DISTANCE OF 43.36 FEET; THENCE N75°30'06"W, A DISTANCE OF 266.15 FEET; THENCE N77°39'50"W, A DISTANCE OF 57.96 FEET; THENCE N71°19'00"W, A DISTANCE OF 70.54 FEET; THENCE N56°48'49"W, A DISTANCE OF 51.43 FEET; THENCE N49°33'36"W, A DISTANCE OF 95.96 FEET; THENCE N35°51'41"W, A DISTANCE OF 84.17 FEET; THENCE N04°30'19"W, A DISTANCE OF 70.06 FEET; THENCE N16°00'57"E, A DISTANCE OF 67.81 FEET; THENCE N36°43'24"E, A DISTANCE OF 53.02 FEET; THENCE N57°16'08"E, A DISTANCE OF 67.76 FEET; THENCE N77°53'43"E, A DISTANCE OF 52.45 FEET; THENCE S81°28'42"E, A DISTANCE OF 56.61 FEET; THENCE S67°34'05"E, A DISTANCE OF 49.24 FEET; THENCE S51°50'28"E, A DISTANCE OF 79.37 FEET; THENCE S01°12'15"E, A DISTANCE OF 61.03 FEET; THENCE



S75°35'11"E, A DISTANCE OF 194.32 FEET; THENCE N13°37'34"W, A DISTANCE OF 153.36 FEET; THENCE N01°10'49"E, A DISTANCE OF 114.21 FEET; THENCE N75°27'16"W, A DISTANCE OF 98.37 FEET; THENCE N63°39'22"W, A DISTANCE OF 57.17 FEET; THENCE N41°39'43"W, A DISTANCE OF 66.69 FEET; THENCE N20°40'32"W, A DISTANCE OF 57.01 FEET; THENCE N01°23'16"W, A DISTANCE OF 47.40 FEET; THENCE N18°00'19"E, A DISTANCE OF 70.13 FEET; THENCE N35°48'21"E, A DISTANCE OF 82.16 FEET; THENCE N55°34'00"E, A DISTANCE OF 95.15 FEET; THENCE N63°20'22"W, A DISTANCE OF 327.83 FEET; THENCE N77°32'00"W, A DISTANCE OF 169.18 FEET; THENCE N71°52'53"W, A DISTANCE OF 234.02 FEET; THENCE N60°22'55"W, A DISTANCE OF 34.92 FEET; THENCE N54°32'02"W, A DISTANCE OF 132.22 FEET TO THE BEGINNING OF A NON TANGENT CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 736.00 FEET AND A CHORD BEARING OF S26°31'47"W; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°09'54"; A DISTANCE OF 130.57 FEET TO A POINT OF REVERSE CURVATURE, OF A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 1,101.00 FEET AND A CHORD BEARING OF S32°38'39"W; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 22°23'38"; A DISTANCE OF 430.32 FEET TO A POINT OF REVERSE CURVATURE, OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 1,673.00 FEET AND A CHORD BEARING OF S42°27'55"W; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 02°45'07"; A DISTANCE OF 80.36 FEET; THENCE S49°26'03"E, A DISTANCE OF 38.71 FEET; THENCE S38°23'41"W, A DISTANCE OF 125.09 FEET; THENCE N49°26'03"W, A DISTANCE OF 37.34 FEET TO THE BEGINNING OF A NON TANGENT CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 86.00 FEET AND A CHORD BEARING OF S16°18'47"W; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°36'12"; A DISTANCE OF 20.42 FEET TO A POINT OF REVERSE CURVATURE, OF A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 114.00 FEET AND A CHORD BEARING OF S22°30'23"W; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 25°59'24"; A DISTANCE OF 51.71 FEET; THENCE S35°30'05"W, A DISTANCE OF 95.47 FEET TO THE BEGINNING OF A NON TANGENT CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 114.00 FEET AND A CHORD BEARING OF S48°38'40"W; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 26°29'30"; A DISTANCE OF 52.71 FEET TO A POINT OF REVERSE CURVATURE, OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 86.00 FEET AND A CHORD BEARING OF S48°38'40"W; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 26°29'30"; A DISTANCE OF 39.76 FEET; THENCE S35°23'55"W, A DISTANCE OF 90.56 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 25.00 FEET AND A CHORD BEARING OF S00°00'47"W; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 70°46'16"; A DISTANCE OF 30.88 FEET TO A POINT OF REVERSE CURVATURE, OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 142.00 FEET AND A CHORD BEARING OF S19°52'09"W; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE

THROUGH A CENTRAL ANGLE OF 110°29'01"; A DISTANCE OF 273.82 FEET TO A POINT OF REVERSE CURVATURE, OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 25.00 FEET AND A CHORD BEARING OF S47°26'47"W; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 55°19'45"; A DISTANCE OF 24.14 FEET; THENCE S19°46'54"W, A DISTANCE OF 80.97 FEET; THENCE N70°13'06"W, A DISTANCE OF 140.00 FEET; THENCE N19°46'54"E, A DISTANCE OF 80.97 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 25.00 FEET AND A CHORD BEARING OF N07°52'58"W; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 55°19'45"; A DISTANCE OF 24.14 FEET TO A POINT OF REVERSE CURVATURE, OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 142.00 FEET AND A CHORD BEARING OF N24°29'24"W; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 22°06'53"; A DISTANCE OF 54.81 FEET TO A POINT OF REVERSE CURVATURE, OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 25.00 FEET AND A CHORD BEARING OF N42°07'39"W; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 57°23'23"; A DISTANCE OF 25.04 FEET; THENCE N70°49'20"W, A DISTANCE OF 132.83 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 1,785.00 FEET AND A CHORD BEARING OF N62°37'49"W; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 16°23'02"; A DISTANCE OF 510.43 FEET; THENCE N54°26'18"W, A DISTANCE OF 671.29 FEET; THENCE S54°38'28"W, A DISTANCE OF 159.40 FEET; THENCE S59°23'19"W, A DISTANCE OF 29.75 FEET; THENCE S14°01'05"W, A DISTANCE OF 23.66 FEET; THENCE S56°40'55"E, A DISTANCE OF 41.29 FEET; THENCE S10°20'03"W, A DISTANCE OF 65.29 FEET; THENCE S61°50'01"E, A DISTANCE OF 49.72 FEET; THENCE S04°24'19"E, A DISTANCE OF 22.87 FEET; THENCE S31°56'24"W, A DISTANCE OF 38.44 FEET; THENCE S47°33'05"W, A DISTANCE OF 268.74 FEET; THENCE S01°42'11"W, A DISTANCE OF 261.66 FEET; THENCE N89°36'21"W, A DISTANCE OF 206.83 FEET; TO A POINT ON THE AFORESAID EAST RIGHT OF WAY LINE OF NARCOOSEE ROAD, THENCE ALONG SAID EAST RIGHT OF WAY LINE THE FOLLOWING TWO COURSES, N00°19'25"E, A DISTANCE OF 206.26 FEET; THENCE N00°19'48"E, A DISTANCE OF 2,673.35 FEET TO THE POINT OF BEGINNING.

EAGLE CREEK  
 MASTER PLAN



**LOT BREAKDOWN**

PHASE	50' LOTS	70' LOTS
PHASE 1A	445	138
PHASE 1B	73	7
PHASE 2&3	614	375
SUB-TOTAL	1132	521
TOTAL	1653	
70' LOT PERCENTAGE = 31%		

SHEET 1 OF 1	<b>HOLLIS</b> <b>ENGINEERING</b> <b>INCORPORATED</b> ONE EIGHT SEVEN NORTH ROAD SUITE 200 ORLANDO, FL 32837 (407) 253-8888 FAX (407) 253-8889	<b>MASTER PLAN</b>	<b>EAGLE CREEK</b> FOR EMERSON INTERNATIONAL, INC.	ENGINEER IN CHARGE PHILIP C. HOLLIS, P.E. REGISTRATION No. 31113	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>REVISIONS</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	NO.	DATE	REVISIONS																														
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ORANGE COUNTY, FLORIDA																																						

EXHIBIT "E"  
(Audubon International Guidelines)

APPENDIX A

PRINCIPLES FOR SUSTAINABLE RESOURCE MANAGEMENT

In an attempt to promote more sustainable patterns of land use, Audubon International proposes a set of principles to guide land management toward better compatibility and harmony with the environment. Audubon International believes that progress must be redefined and become synonymous with sustainable.

Simply put, "sustainable" means a pattern of human activity that can be supported indefinitely. It means living in such a way that we do not diminish the opportunity for future generations to live at least as well as we do. It is, for example, the act of taking only one tree a year from a forest that is producing only one tree a year. It means weaning ourselves from non-renewable resources.

In our society, however, sustainability must embrace more than harvesting trees. We must reduce the use of non-renewable resources in all aspects of life. We must not manipulate the environment to support activities it is not capable of supporting, and we must not add to the environment substances that alter its ability to function properly. By functioning properly, we mean that the natural cycles of the earth which control the climate, weather, migration of animals, the functioning of ecosystems, and atmospheric composition should not be impaired or altered. Plants and animals should not be subjected to chemicals that can impair their health. Using land in a sustainable manner includes considering the effects of transportation and recreation on developed and adjacent lands and green spaces. Building and community designs are also an integral part of a sustainable land-use program.

Sustainability is at least partially achieved when a resource can be conserved, recycled, reused, or obtained from a renewable source. There is also a proliferation of technology that can increase sustainability in most areas of modern living. Audubon realizes that a portion of achieving sustainability will occur as the technology becomes practical and possible to implement. There is, however, a present lack of an infrastructure to support the technological advances that are necessary. In many cases cultural patterns undoubtedly will have to change in order to achieve sustainability. For example, electric cars are a practical and existing alternatives to the internal combustion engine, yet we do not have "battery-recharge stations" readily available, nor sufficient ways to recycle worn batteries. From the cultural point of view something as simple as the present practice employed by many of drying clothing at night may have to be altered in the solar future because of electric storage capacity and other energy considerations. Also, a transition to DC powered appliances will be difficult based upon present high prices of those types of appliances. Costs can be driven by use and demand, but expanding use will be phased in over time.

"Transitional technologies" more sustainable than today's, but not totally sustainable, must be employed. Identifying these so we can generally progress toward sustainability is critical. Also, recognition of the transitional technologies as "less than sustainable" will help keep the focus on

## **Principles for Sustainable Resource Management**

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our ultimate goal of sustainability. These transitional technologies must be abandoned as more sustainable alternatives become available.

Sustainability is an enormous issue, and one that cannot yet be totally encompassed in one purchase or project. Until we develop solar based and other alternatives to our cars, trucks, ships and planes, we will not reach sustainability. Even if we use a solar panel for water heating, for example, but it is delivered to us in an oil powered vehicle, then we have not arrived at total sustainability. We must use the technologies now available and continue to support research and development to provide sustainable alternatives for the future.

Audubon accepts that total sustainability will be achieved in increments. Reaching a sustainable level must be our goal, but this cannot be accomplished overnight. However, we cannot "wish" ourselves there. We must plan, build and rebuild ourselves to sustainability.

The following Principles for Sustainable Resource Management are designed to serve as a **guide** to a more comprehensive approach to land use at the individual, local and community level. Whether building a house, city, golf course, park, or considering a purchase, these principles apply.

### **1. Site Specific Assessment**

Before land-use changes take place, it is crucial to understand the "properties" of the site to be changed. A comprehensive site survey should do the following:

1. Identify the area's unique resources to preserve or conserve them.
2. Specify the area of change and establish parameters for further change (if any) beyond this area.
3. Identify the geographic/topographic features of the area.
4. Make it possible to choose power sources in accord with the area's physical attributes.
5. Identify and conserve areas of archeological, natural, historical and cultural significance.
6. Identify land use in the vicinity and seek compatibility regarding development.

### **2. Habitat Sensitivity**

Sustainable resource management entails factoring in the wildlife of an area or region. Using land in a habitat-sensitive way includes:

1. Not disturbing local wildlife populations by altering food sources, shelter, water etc.
2. Protecting ecologically sensitive areas (wetlands, sensitive wildlife habitat, rainforests etc.) from all impacts.
3. Not posing threats to species indirectly or directly through increased air and water pollution.
4. Not increasing noise levels.

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## Principles for Sustainable Resource Management

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5. Ensuring migratory species access to habitual routes, food sources and breeding grounds.
6. Maintaining corridors and green space that will allow for the movement of plants and animals.

### 3. Native and Naturalized Plants and Natural Landscaping

Sustainable resource management should provide the use of material and resources native to an area. Using native or naturalized plants for example, reduces the need for special watering and ground preparation, while natural landscaping can help hold valuable topsoil. For this reason, native and naturalized plants and natural landscaping:

1. Should be used exclusively, except for special purpose areas, such as golf greens, fairways.
2. Should be designed and implemented to reduce tree loss.
3. Should encourage wildlife habitation and bio-diversity.
4. Should not require the need for chemical pesticides, herbicides and fertilizers, and minimize their use on special areas such as golf greens and fairways.
5. Should use efficient irrigation methods and practices.
6. Should maximize the use of integrated resource management.

### 4. Water Conservation

Water is one of our most misused, mismanaged, and misunderstood resources. We make deserts bloom year around and move people to places that are running out of water. A water conservation program should:

1. Utilize a rainwater collection system for watering grounds, flushing toilets etc.
2. Utilize low-flow or aerated faucet heads.
3. Evaluate sustainable yields for the lowest flow periods of their supply and design to accommodate those periods.
4. Recapture and re-utilize water resources.
5. Utilize native and naturalized plants, and turfgrass species that are biologically correct for the geographic region.

### 5. Waste Management

The first principle of waste management should be to not generate it. If waste is generated, the following will apply:

1. Solid and hazardous wastes must be reduced, recycled or reused whenever possible. Continuously review how much solid and hazardous waste is generated.

## **Principles for Sustainable Resource Management**

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2. Non-recyclable wastes must be disposed of in an environmentally sensitive manner in accordance with regulations. Periodically review waste reduction strategies and recycling methods used.
3. Compost all organic wastes.
4. Explore low capital, low maintenance alternatives for wastewater treatment systems, such as artificial wetlands.

### **6. Renewable Energy Sources**

Nothing short of weaning ourselves from oil and coal is ultimately acceptable. Until that time a development should:

1. Explore the utilization of:
  - a. Photovoltaics
  - b. Solar power
  - c. Wind power
  - d. Geothermal power
  - e. Wave and tide generated power
  - f. Hydro-electric power (limited)
  - g. Clean burning fuels
2. Minimize consumption of non-renewable resources while more energy efficient sources are being developed.

### **7. Transportation**

To move toward sustainability, we should:

1. Stress the use of public transportation.
2. Encourage and utilize low-impact transportation by providing sidewalks, walking trails, and bicycle paths.
3. Ensure the availability of energy efficient public transportation to new areas of development and to-and-from city centers.
4. Reduce cross-country transportation of goods by diversifying local resources.

### **8. Recreation**

More and more leisure time is a blessing and a curse. Much of our leisure time uses massive amounts of energy. More sustainable recreational opportunities should:

1. Promote low-impact activities (such as bird watching, golf, tennis etc.).
2. Eliminate the use of fossil fuels (i.e. use of solar charged or electric golf carts).
3. Not detract from or destroy natural areas.
4. Minimize maintenance, maximize use of native and naturalized plants.

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## Principles for Sustainable Resource Management

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### 9. Green Space and Corridors

Parks, bike paths, trees, green tentacles of forested stream corridors reaching into urban areas are necessary elements of sustainability. In this regard we should:

1. Provide access to appropriate green spaces for educational and recreational experiences.
2. Maintain corridors that connect areas and allow for wildlife movement within the property boundary and to and from adjacent areas.
3. Preserve green spaces within a city or community.

### 10. Chemical Use

To reach sustainability, we must minimize the use of chemicals in order to keep the balance of nature intact. To achieve this level of sustainability, development must:

1. Utilize the least atmospheric destructive forms of refrigeration, climate control, and insulation.
2. Minimize chemical use in maintenance activities both inside and outside.
3. Encourage the consumption of products made with little or no chemically treated materials.

### 11. Agriculture

Reaching sustainability will include sustainable agricultural practices. Therefore, we should:

1. Protect prime agricultural production areas.
2. Promote regional food self sufficiency.
3. Improve the efficiency of farming methods.
4. Improve irrigation and drainage systems.
5. Integrate livestock and food crops to improve soil fertility.
6. Minimize pesticide use through IPM (Integrated Pest Management) methods.
7. Explore the use of greenhouse farming.
8. Increase the use of aquaculture.

### 12. Buildings

The design of individual buildings is essential to developing sustainable patterns of behavior. Everything from lighting to composting food scraps must be considered. In this regard the building designs should:

1. Be designed to be energy efficient in terms of:
  - a. heating/cooling
  - b. ventilation
  - c. building material



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## Principles for Sustainable Resource Management

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- d. appliances
- e. lighting
- f. cooking
- g. water use
- h. space
2. Include efficient waste handling and recycling efforts.
3. Use ecologically appropriate landscaping practices that minimize maintenance.
4. Use ecologically appropriate building materials.

### 13. Community Design

Beyond the specific design of a structure, there is the issue of how it is all put together in a community. Where does the food come from? Where do the people work and play? How are the sustainable patterns of behavior extended into the larger community? Community developments should consider the following:

1. Reflect the area's sustainable resources.
2. Encourage low impact transportation like walking, bicycling, etc.
3. Work with the contours of the land to avoid excessive blasting and filling.
4. Include recycling/composting centers.
5. Include parking structures for bicycles.
6. Include support stations for other alternative forms of transportation.
7. Include a multi-purpose community/environmental education center.
8. Include multiple family housing when possible.
9. Minimize the use of asphalt for drives and parking lots.
10. Continually look for opportunities to "re-claim" previously altered environments.
11. Cluster structures and maximize open space.

### 14. Durability

We live in a society where planned obsolescence has become a way of life. Durable items and buildings must:

1. Be built to last.
2. Include materials that last with little maintenance.
3. Be furnished with high-quality, dependable and efficient appliances.

### 15. Education

Any community development that embodies the sustainable approach will need to educate the users of the area concerning their roles and responsibilities in the implementation of sustainable living. This should include awareness programs for the community at large. In this regard, we should:

### **Principles for Sustainable Resource Management**

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1. Include a local community education component.
2. Provide for training people concerning the hows and whys of sustainable living.
3. Provide limited access to, and interpretation of, the sustainable aspects of a development, by use of interpretative trails and printed materials.

**APPENDIX B**  
**Choosing Green Building Materials**

**1. Products Made from Environmentally Attractive Materials.**

- Products That Reduce Materials Use
- Salvaged Products
- Products with Post-Consumer Recycled Content
- Products with Post-Industrial Recycled Content
- Certified Wood Products
- Products Made from Agricultural Waste Materials
- Natural or Minimally Processed Products

**2. Products That Are Green Because of What Isn't There**

- Alternatives to Ozone-Depleting Substances
- Alternatives to Products Made from PVC and Polycarbonate
- Alternatives to Conventional Preservative-Treated Wood
- Alternatives to Other Components Considered Hazardous

**3. Products That Reduce Environmental Impacts During Construction, Renovation, or Demolition**

- Products That Reduce the Impacts of New Construction
- Products That Reduce the Impacts of Renovation
- Products That Reduce the Impacts of Demolition
- Products That Reduce Environmental Impacts of Building Operation
- Building Components That Reduce Heating and Cooling Loads

**4. Products That Reduce Environmental Impacts of Building Operation.**

- Building Components That Reduce Heating and Cooling Loads
- Equipment That Conserves Energy
- Renewable Energy and Fuel Cell Equipment
- Fixtures and Equipment That Conserve Water
- Products with Exceptional Durability or Low Maintenance Requirements
- Products That Prevent Pollution or Reduce Waste
- Products That Reduce or Eliminate Pesticide Treatments

**5. Products That Contribute to a Safe, Healthy Indoor Environment**

- Products That Don't Release Significant Pollutants into the Building.
- Products That Block Development and Spread of Indoor Contaminants
- Products That Remove Indoor Pollutants
- Products That Warn Occupants of Health Hazards in the Building
- Products That Improve Light Quality

## APPENDIX C

### WASTE MANAGEMENT AND ENERGY PLANNING

This Appendix is intended to provide Eagle Creek Development with information regarding energy and waste management. In keeping with the principles of sustainability, owners are encouraged to review and incorporate this material and incorporate information as they deem appropriate. These ideas are applicable to homes or businesses.

#### WASTE MANAGEMENT

Waste management is a key consideration in the Audubon Signature Program. The guiding philosophy for waste management consideration should be: **Reduction, Reuse, Recycling**. Reduction will not only benefit the environment, but the economic bottom-line as well.

Audubon International promotes the concept of establishing water and wildlife as the "litmus paper" test for waste management planning -- water, because it is on the receiving end of every human activity, and wildlife because they are indicators of the overall health of the environment. In addition, possible water and wildlife impacts should be considered both on and off the site, thus truly making the project a nationally significant sustainable development model.

The following twelve step decision-making process should be followed when making decisions about the design, construction or product use at the property site. When going through the 12-step process keep in mind the overall consideration for this process which is:

*Will the decision you are about to make relative to the siting, design, construction or product acquisition and use effect either water (quantity or quality) or wildlife (food, cover, water, space) on or off the project site. If the answer is yes, and it has potential negative impact, what alternatives have you considered to reduce those impacts? (It would be a rare occurrence if the answer was ever no).*

#### Product Use Considerations

Two of the most significant sources of environmental impact from building materials are **energy use** in the building and possible impacts on **occupant health**. Considerations of impacts of product use depend not only on the materials in question, but also on the application of the material.

**Step 1: Energy Use.** Will the material in question (i.e., glazing, insulations, mechanical systems) have a measurable impact on building energy use?

If no, proceed to Step 2.

If yes, avoid options that do not minimize energy use. Also take care to design the application to minimize energy use. For materials that can be used in an energy-efficient manner only with the addition of other components, the impact of including those

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### Waste Management and Energy Planning

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additional components must be factored in. Examples include glazing systems that require exterior shading systems for efficiency, and light gage steel framing that requires foam sheathing to prevent thermal bridging.

**Step 2: Occupant Health.** Might products in the application (i.e., interior furnishings, interior finishes, mechanical systems) affect the health of building occupants?

If no, proceed to Step 3.

If yes, avoid materials that are likely to adversely affect occupant health, and design systems to minimize any possible adverse effects when sources of indoor pollution cannot be avoided.

**Step 3: Durability and Maintenance.** Are products in this application likely to need replacement, special treatment, or repair multiple times during the life of the structure (i.e., roofing, coating, sealants)?

If no, proceed to Step 4.

If yes, avoid products with short life spans (unless they are made from low-impact, renewable materials and are easily recycled), or products that require frequent, high impact maintenance procedures. Also, design the structure for flexibility so that materials that might become obsolete before they wear out (such as wiring) and can be replaced with minimal disruption and cost.

### Product Manufacturing Considerations

The next steps pertain less to the application (how a material or product is used) and more to the material itself. They require knowledge of the raw materials that go into each product.

**Step 4: Hazardous By-Products.** Are significant toxic or hazardous intermediaries or by-products created during manufacture, and if so, how significant is the risk of their release to the environment or risk of hazard to worker health?

If these are not significant, proceed to Step 5.

Where toxic by-products are either generated in large quantities or in small, but uncontrolled quantities (smelting of zinc, production of petrochemicals), the building material in question should be avoided if possible, or source from a company with strong environmental standards.

**Step 5: Energy Use.** How energy-intensive is the manufacturing process?

If not very intensive, proceed to Step 6.

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If the manufacture of a building material is very energy-intensive compared to the alternatives (i.e., aluminum, plastics, etc.), its use should be maximized. It is not the energy use itself that is of concern, however, but the pollution from its generation and use; industries using clean-burning or renewable energy sources have lower burdens than those relying on coal or petroleum.

**Step 6: Waste From Manufacturing.** How much solid waste is generated in the manufacturing process?

If not much relative to the quantity of product manufactured, proceed to Step 7.

If significant amounts of solid waste are generated and are not readily usable for other purposes (tailings from mining of copper and other metals), seek alternative materials, or materials from companies with progressive recycling programs.

### Raw Materials Considerations

**Step 7: Resource Limitations.** Are any of the component materials from rare or endangered resources?

If no, proceed to Step 8.

If yes (endangered or threatened tree species), avoid these products, unless they can be source from recycled material.

**Step 8: Impacts of Resource Extraction.** Are there significant ecological impacts from the process of mining or harvesting the raw materials?

If no proceed to Step 9.

If yes (damage to rainforests from bauxite mining for aluminum, or from certain timber harvesting practices), seek suppliers of material from recycled stock, or those with credible third-party verification of environmentally sound harvesting methods.

**Step 9: Transportation.** Are the primary raw materials located a great distance from your site (i.e., Italian marble, tropical timber, New Zealand Wool)?

If no, proceed to Step 10.

If yes, seek appropriate alternative materials from more local sources.

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### Disposal and Reuse Considerations

**Step 10: Demolition Waste.** Can the material be easily separated out for reuse or recycling after its useful life in the structure is over?

If yes, proceed to Step 11.

While most materials that are used in large quantities in building construction (i.e., steel, concrete, etc.) can be at least partially recycled, others are less recyclable and may become a disposal problem in the future. Examples include products that combine different materials (such as fiberglass composites) or undergo a fundamental chemical change during manufacture (thermoset plastics such as polyurethane foams). Consider the future recyclability of products chosen.

**Step 11: Hazardous Materials From Demolition.** Might the material become a toxic or hazardous waste problem after the end of its useful life (i.e., preservative-treated wood)?

If no, proceed to Step 12.

If yes, seek alternative products or construction systems that require less of the material in question.

**Step 12: Review the Results.** Go over any concerns that have been raised about the products under consideration, and look for other life-cycle impacts that might be specific to a particular material. For example, with drywall and spray-in open cell polyurethane foam insulation, waste generated at the site is a potential problem that should be considered.

### CONSERVING ENERGY

You know that energy expenses are part of the cost of doing business or running a home. But by choosing low-cost or no-cost energy-efficient measures that fit your situation, you can easily save hundreds (or in businesses, even thousands) of dollars annually in energy costs while protecting the environment.

### Background Information

**Evaluate Energy Use.** To discover where you can save energy, you'll first need to look at your energy profile—how much energy you use, where you use it, and how much it costs; or how much you expect to use. Maybe you use energy for space heating or cooling or water heating. What about lighting or running office equipment or other machines? Does fuel for transportation make up part of your energy picture?

Next, add all your energy expenses together. You may be surprised to find that the total amounts to several thousand dollars. This section will help you learn about equipment and techniques that

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can save you 20% or more on energy costs (*From: Hands-On Solutions to Improve Your Profits & Productivity*, U.S. Department of Energy.)

**Six Major Areas for Savings.** Look for ways to save in six major areas:

- Lighting
- Buildings
- HVAC and Solar
- Equipment & Machines
- Motors
- Vehicles

The following sections provide details on each of these areas for improving energy conservation in your organization. Additional resources and funding options are included at the end to help you get started.

### Lighting

Lighting is the largest user of electricity and the easiest area in which to save in commercial buildings. Many businesses and homes are lowering their lighting bills by installing energy-efficient equipment such as fluorescent and compact fluorescent lamps, task lighting, and lighting controls.

Using energy-efficient equipment also reduces the incidence of eyestrain and headaches among employees, actually improving worker productivity. Energy-saving retrofits also can raise the market value of a building and provide an edge in competitive leasing markets.

#### **Lighting Options.**

- **Energy-Efficient Fluorescent Lamps.** These save about 35% of the wattage used by standard fluorescents and last just as long. Although the energy-efficient lamps are more costly than standard bulbs, the energy savings more than compensates for the extra cost.

Many utilities are helping their customers buy and install efficient lighting equipment. A rebate from your utility can further cut the already short payback periods for investing in energy-efficient lighting. Your local utility can also be a good source of information on designing and purchasing lighting retrofits.

- **Electronic Ballasts.** When replacing standard fluorescent lights with energy-efficient lamps, it's necessary to replace the existing ballasts. When doing so, be sure to specify electronic ballasts. They operate 75% more quietly than conventional ballasts, eliminating the familiar flicker and hum of older fluorescent lights. Simple payback periods on these improvements can be as short as 1 to 2 years.



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- *Task Lighting.* Task lighting is simple—uniformly light the areas where you actually need the light, rather than the entire area. In other words, use smaller, more efficient lights that bring the light source closer to the work area requiring illumination. This concept applies to such areas as offices, workrooms, and garages.
- *Compact Fluorescent Lamps.* Compact fluorescents are a good alternative to incandescent light bulbs. They last about 10 times longer than incandescent lamps. Lights that operate much of the time, such as in hallways or stairwells, are popular applications for compact fluorescent lamps.
- *Lighting Controls.* Manual controls can be used in spaces that accommodate different tasks or that have access to daylight. In this way, occupants can manually shut lights off when they aren't needed. Automatic controls such as occupancy sensors are convenient for turning lights off when certain areas—such as conference rooms, storage rooms, and restrooms—are unoccupied. Autodimming controls are available that automatically adjust light levels according to existing daylight.
- *Reflectors.* Reflectors can increase the effectiveness of a fluorescent lighting fixture by about 10% in some situations by reflecting additional light on the work space. Reflectors installed with energy-efficient fluorescent lamps and electronic ballasts can reduce lighting energy costs by as much as 70%.

## Buildings

Your building or home probably has room for low-cost energy efficiency improvements; or you can build them in if you are building a new facility. Besides saving you money, these improvements lead to greater comfort for family, staff or customers. When you evaluate how your building is using energy, you may find many opportunities for efficiency improvements.

### *Better Buildings.*

- *Isolate Unused Spaces.* Often, your building contains space that isn't used by people and may not require space conditioning. Isolate these areas by closing heating and cooling vents and covering exterior windows. Sealing unused exterior windows and doors can represent a valuable security benefit, too.
- *Stop Leaks.* One of the easiest and quickest dollar-saving techniques is caulking leaks in your building. Heat always flows from a warmer environment to a cooler one—when it's cold outside, heat tends to leak outward. Eliminating leaks in your building exterior (like walls, windows, doors, ceilings, and floors) works to your advantage for both heating and cooling. When it's windy outside, your ears or sense of touch may guide you to substantial leaks.
- *Check Doors, Windows, and Other Openings.* A few simple measures can really help prevent leakage. For example, replace any broken or cracked glass. Use automatic

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door closers, be sure they're adjusted for proper operation, and replace them when necessary. Use an exterior insulating cover on window-mounted or above-door air conditioners during winter. Finally, make certain the space around your air conditioner is thoroughly sealed.

### HVAC and Solar

You probably spend many energy dollars on heating and cooling your buildings. Comfort is a high priority. Installing the programmable thermostats and energy-efficient boilers and water heaters described in this section is an easy way to start saving energy; proper maintenance is equally important.

You may also be able to save energy by managing the sunlight that falls on your building. Solar hot water systems and solar heating systems are two potentially economical solar energy technologies you might want to consider.

***Heating, Ventilating and Air-Conditioning (HVAC).*** By following basic steps can save energy, increase comfort, and enhance equipment operation.

- ***Programmable Thermostats.*** These simple microprocessor-based products offer as much as a 50% rate of return on energy dollars. In addition, these devices will maintain system start-up and set-back schedules for optimum comfort. They can also eliminate unnecessary HVAC use during unoccupied hours.
- ***Furnace Maintenance and Repair.*** An easy first step is to establish a regime for replacing dirty air filters. The uses of your building or home, as well as location, will dictate how often changing is required. It's often well worth the expense to have a trained specialist inspect and perform needed maintenance on your furnace and cooling system. Also, simple maintenance such as cleaning intake screens, condenser coils, supply registers, and return grills can make a difference in your energy bills.
- ***Duct Maintenance and Repair.*** Typical duct systems lose energy from your heating and air-conditioning equipment. Use duct tape to seal duct joints and elbows where accessible. Insulate any duct work in unconditioned space, such as roofs, attics, crawl spaces, and basements. Identify and repair damaged or disconnected ducts while you check the system.
- ***Boilers.*** If your building uses a boiler for heating, follow the factory maintenance schedule and procedures. If you are using a fuel other than natural gas, consider switching to natural gas, which is less expensive. If maintenance costs for your existing boiler have become excessive or you need to replace your boiler, replace it with a high-efficiency model.

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- *Ventilation Rate.* Building ventilation is necessary so that your building has a reasonable supply of fresh air. However, excessive ventilation rates increase your heating and cooling costs dramatically. Have a professional engineer or trained specialist optimize your system's ventilation rate.
- *Hot Water Supply.* Your hot water temperature is often set higher than you really need. Gradually set the temperature downward until you reach an optimum. You can also install flow restrictors and self-closing faucets; they will reduce your hot water use. Finally, check your entire system for leaks and repair them.
- *Water Heater.* One of the most effective measures you can use is an insulating jacket for the water heater. These jackets are easily found at large convenience, building, and hardware supply stores. A simple electronic time-of-use controller will ensure that your electric water heater is off when not needed.

**Solar Energy.** You can use the sun's energy to maximize natural lighting and heating, which will decrease costs for artificial lighting and space heating. Your air-conditioning costs and comfort requirements may necessitate balancing with solar heating to minimize the effects of the sun's energy.

- *Direct Sunlight: Enhancement or Control.* Sunlight striking your building can work for you or against you. When you are trying to cool your building, you don't want sunlight pouring in through windows, doors, and skylights, adding considerably to your air-conditioning bills. However, when you are heating your building, you want the sunlight to enter your building.

During the air-conditioning season, provide shading to windows, doors, and skylights. This can be done effectively with awnings, sunscreens, shade trees, and shrubbery. During the heating season, you can save money by permitting sunlight to enter the building through windows and other openings.

- *Solar Hot Water Systems.* Water-heating needs can be economically and reliably met by solar energy. Depending on the cost of your current water-heating system and its energy source (oil, electricity, natural gas, or propane), basic solar water heating or preheating may make economic sense.
- *Solar Heating Systems as Supplements to HVAC Systems.* In most areas, an all-electric heating system will be expensive to operate and will leave you vulnerable to power outages and ever-increasing energy rates.

Supplemental space heating is efficiently provided by the transpired solar collector, a type of solar collector that heats air for the building. In 1994, this new collector received a "Best of What's New" award from *Popular Science* (February 1994, page 20). This system has been effectively demonstrated, meeting winter head-on in

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Canada. Check with local or state energy offices, local utilities, energy businesses, universities, or your accountant for the availability of state tax incentives or technical assistance to businesses using solar water heating systems.

### Equipment and Machines

While this category is primarily for offices, homes can also achieve savings in electricity use. Electricity use for office equipment is growing faster than any other category of electricity use in the commercial sector. This category includes computers, monitors, printers, facsimile machines, and copiers. Energy use by office equipment is expected to grow by as much as 500% in the next decade.

It takes less electricity to run energy-efficient office equipment; using energy-saving equipment also saves on air-conditioning costs because the equipment produces less waste heat. More efficient equipment can also increase occupant comfort by cooling areas more uniformly and reducing HVAC system noise.

- *Turn off Equipment.* About 30% to 40% of personal computers and printers are left running at night and on weekends, and these machines are idle as much as 90% of their workday on time.

Don't be confused by so-called "screen savers." They do not save electricity in computer monitors; they are meant to prevent phosphor "burn-in" on the screen.

Cycling power on and off to your computer will not harm late-model machines. *Energy Star* computers, monitors, and printers can automatically power down to save electricity when not being used. Don't forget to consider sharing printers and copiers; this will decrease their idle time and provide for more cost-effective use of the equipment.

- *Buy Energy-Efficient Equipment.* Make energy efficiency a purchasing criteria to help you select equipment in a sometimes confusing marketplace.

Also, check your other appliances for energy-saving opportunities. High-efficiency, cost-effective equipment is now readily available, so be sure to ask for it when you're shopping.

### Motors

Electric motors supply most of the so-called "drive energy" in the United States and consume more than half of the nation's electricity. Electric motors are used in pumps, fans, and compressors, and for materials processing and handling. This is primarily for businesses, but homes can take advantage of the ideas as well.

### Waste Management and Energy Planning

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- *Install Efficient Motors.* Energy-efficient motors are available that use less energy to accomplish the same amount of work. Depending on the size, type, and manufacturer, energy-efficient motors typically cost 10% to 30% more than standard models. Because of superior design and higher quality production, these motors tend to be more reliable, produce less waste heat, and run more quickly than standard models.
- *Downsize Oversized Motors.* Unfortunately, it has been common practice for many years to oversize motors. But because motors are inefficient when running at less than 50% of rated load, oversized and under loaded motors can waste energy and money. This problem is extensive; audits indicate that about 30% of all industrial and commercial motors operate at less than 50% of full load, resulting in substantial inefficiency costs.
- *Install Variable-Speed Drives.* In applications in which loads fluctuate, replace single-speed motors with variable-speed drives. A variable-speed drive allows equipment output to more exactly match demand. Depending on your circumstances, variable-speed drive can reduce motor energy use by 10% to 70%.
- *Adhere to Proper Maintenance Schedules.* Careful monitoring and maintenance are necessary to keep a high-efficiency motor system operating properly, and the energy savings from good maintenance is significant. Additional benefits include more reliable, trouble-free operation, and extended equipment life.

### Vehicles

This section is primarily for businesses, but selected ideas can be used by groups, or homeowners. If your business maintains a vehicle fleet or provides delivery services, you will want to investigate how you can save money on fuel. In addition to achieving money and energy savings, these measures will help lessen transportation-related air pollution.

- *Conventional Fuels.* Each year the U.S. Department of Energy (DOE) publishes a *Fuel Economy Guide*, which lists the miles per gallon (mpg) ratings for all vehicles are likely to save your company money through lower fuel costs.

Your drivers can also be made more aware of ways in which they can drive more effectively to save on fuel. Combining errands into one trip, turning an engine off rather than letting it idle for more than a minute, getting a tune-up regularly, avoiding jackrabbit starts, and not carrying unnecessary weight in vehicles are all ways to save on gasoline. The *Guide* provides these and other driving hints. The *Fuel Economy Guide* is available through your automobile dealer, or it can be ordered free of charge from the Energy Efficiency and Renewable Energy Clearinghouse.

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Energy Efficiency and Renewable  
Energy Clearinghouse (EREC)  
P.O. Box 3048  
Menifield, VA 22116

(800) DOE-EREC  
Fax (703) 893-0400

- *Alternative Fuels.* If you have a fleet of 10 or more vehicles, it is possible that you may be required to comply with either the Clean Air Act or the Energy Policy Act requirements for fleets. These requirements have been put in place to help increase U.S. energy security through increased use of alternative fuels, or to improve our country's air quality.

The Energy Policy Act requires the use of alternatives fuels such as natural gas, electricity, methanol, ethanol, or propane in certain percentages for some fleets. The Clean Air Act requires that you vehicles meet certain emissions standards through the use of alternative fuels or reformulated gasoline and clean diesel fuel. To find out more about these fuels and to determine whether your fleet must comply, you can call the DOE Alternative Fuels Hotline at (800) 423-1363.

- *Other Transportation Options.* Other transportation options may be worth evaluating for use in your business. Helping employees take advantage of mass transit, ride sharing, and alternative work schedules often increases employee morale and loyalty. These options may also translate to good community relations because your are supporting efforts to reduce pollution, dependence on foreign oil, and traffic congestion.
- *Mass Transit.* Encouraging your employees to use rail and bus mass transit is the most effective means of alleviating urban gridlock and air pollution from private vehicles.
- *Ride Sharing.* Car or van pooling can be an effective transportation measure. Check with your local mass transit agency, or your local or state energy office, for information about ride-sharing programs in your area.
- *Alternative Work Schedules.* Continuing to grow in popularity, alternative work schedules shift work hours away from peak *traffic-flow* times, which decreases traffic congestion, commuting time, and driver anxiety. Depending on your type of business, this measure may be appropriate for you.

### **Getting Organized**

Now that you have some idea of how to proceed with energy efficiency improvements, use the following list to aid your planning. Remember, you can use this for a new or existing building:

### **Waste Management and Energy Planning**

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1. Gather and total all your energy costs. Pull together your past year's bills (or anticipated bills) and total these costs. Be sure you are adding all the bills from different energy sources (utilities, vendors, and service stations). You may want to keep your heating and cooling costs separate from your transportation-related costs.
2. Get a professional energy audit or do a self-audit. Contact your local utility, municipal services department or local university for technical or financial assistance. Or, based on the information presented here, perform your own assessment of your energy use and areas for improvement. The Energy Conservation Survey at the end of this section will help you get started in finding out what basic conservation measures are in place.
3. Enlist the aid of staff members, or for the homeowners, work in groups learning and sharing with one another. Fellow workers or homeowners may prove to be your best asset.
4. Develop a list of best options. Assemble a list of options based on the information provided in this book and your investigation of your energy use situation. Use cost and ease of implementation to rank choices. If appropriate, get staff input on selection of action items.
5. Implement your plan and take action. Carry out the action plan and start saving money for an improved bottom line.
6. Track savings and energy use. DO NOT forget this step! Evidence of tangible rewards can help improve and encourage others to participate.





## APPENDIX D

### Construction Guidelines for Residential Development

#### 1.0 Goals

Preconstruction Guides for the Audubon Signature Program identify a process for environmental protection and enhancement when building a community. These guides are for the preconstruction and construction phases of development, and focus on the basic ecological goals of Audubon International to maintain and enhance water resources; habitat value and quantity; and biodiversity. Following these guidelines and principles, should result in increased environmental protection and habitat enhancement.

1. The design of the residential development should include the following basic concepts:
  - Design in context with the landscape;
  - Design in an eco-centric manner;
  - Use design to increase the ecological sensitivity and biodiversity of the residential community site; and
  - Design in a proactive manner.
2. Identify the biological, chemical and physical resources at the property. Knowing the characteristics of the site facilitate informed decisions.
3. Examine the property and it's surroundings relative to its position in the watershed. Land and land use changes must be understood in terms of the landscape.
4. Identify environmental and ecological areas on the property that require protection. Identification allows protection of the sensitive areas or species. Designate core habitat areas that include all existing wetlands. Identify systems of corridors, connections and habitat areas.
5. Site the residential pods on the property to avoid core natural areas.
6. Identify construction and management practices that will afford protection for areas or species that require protection. Management practices that should be included in a comprehensive program include the following: 1) Construction Management; 2) Conservation Management Zones; 2) Drainage; 3) Best Management Practices that includes Integrated Pest Management, a risk assessment to select pesticides and fertilizers, and restrictions on the use of certain materials in sensitive areas.
7. Wildlife habitat is determined and action plans are developed to conserve and enhance habitat.

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## Construction Guidelines for Residential Development

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### 2.0 Construction Management

Managing site disturbance during clearing and construction is an important step in minimizing ecological damage to the site. Site disturbance should be minimized, as should earth movement. One of the goals of these projects is to allow the community to reflect natural site conditions, thus extensive reshaping should not need to be conducted.

Minimization of disturbance is important because disturbance upsets ecological systems at the site which negatively affect biodiversity, stability and overall ecological health of the site. Even though the site can be revegetated so that it looks attractive or perhaps as it once did, disturbance upsets the functioning of the area. For example, nutrient recycling is retarded or impaired, and hydrological characteristics are altered. In the desert, for example, regrowth may require decades to replace the functioning of the system. Non-disturbance is positive and should be a priority of the development team. Both site structure and function can be maintained by prudent clearing and construction practices.

The following identifies components of a construction management program. When followed, it should minimize site disturbance and provide the foundation for enhancement of the habitat and wildlife on the property.

1. **Clearly identify all jurisdictional limits.** This may include wetlands; or, e.g., waters of the United States; wildlife management or protection areas (e.g., Eagle management areas); pipelines or other right-of-ways. Also, the internally designated core natural areas, buffers, and wetlands.
2. **Define protocols and locations for clearing vegetation on a site plan.** These areas include the following: Storage Area for Wood Chips; Storage Area for Soil; Area for removal of all vegetation between the marked limits; Area for removal of all undesirable vegetation; Service roads; Limits of second phase clearance; and wooded zones, wetlands, buffers, and corridors.
3. **Clearing should be iterative.** The first phase of clearing will generally include the house pad, centerline of roadways, amenities building etc. Phase II will include selective clearing, and will begin only after Phase I has been inspected and approved by the team. Phase III will include selective removal of remaining vegetation, depending upon the requirements of each house lot, roadway or amenities building. Throughout the clearing process all specimen trees that have been marked will remain, unless specifically directed by the Construction Manager and Audubon International.
4. **Identify clearing lines with uniform, color coding.** Care needs to be taken so that flagging does not fade, and the different colors become indistinguishable. The following is an example of color coding:

**Construction Guidelines for Residential Development**

Clearing	Color Coding
Jurisdictional Limits	Pink Tape
Perimeter Edges of Clearance	Red and White Tape
Perimeter Edges of Clearance with no motorized vehicles	Blue Tape
Areas of access denied to everything	Orange "snow fence"
Edges of Haul Routes	Red Tape
Protected Specimen Trees	Yellow Tape
Core Habitat Area	Pink and White Tape

These areas are defined by the Construction Manager with input from Audubon International, Landscape Architects, and associated team members.

5. **Preserve specimen trees.** Many specimen trees within the area of proposed encroachment should be tagged, based on a combination of the following factors:
  - Form (preference towards unique specimens);
  - Health (preference for those with relatively little evidence of heart rot or other damage); and
  - Representation (attempt to ensure any native species which are locally less abundant continue to be represented within the retained stand).
  
6. **Protect specimen trees.** In many cases, the final determination of what can be preserved successfully will not be made until clearing begins. To ensure the greatest opportunity for the successful retention of these trees, the following practices will be employed:
  - Trees to be retained are to be clearly marked prior to the onset of clearing within an area.
  - Grading, and any vehicular movement is to be kept to an absolute minimum within the drip-line of the base of trees to be preserved. This can be achieved by the placement of temporary construction fencing (orange 'snow-fence') around such trees.
  - In transplanting saplings to these areas, an emphasis is placed on mast trees and shrubs (those which produce nuts and acorns), and also fruiting shrubs. These are valuable food sources for a variety of wildlife.
  
7. **Maintain or restore edge conditions of preservation areas within and adjacent to cleared areas.** Construction activity (actual clearing as well as haul road activity) should be kept within the specified boundaries, and follow the prescribed pattern of clearing. Tree harvesting is to occur in a selective fashion, with an attempt to maintain as many saplings as possible. Regrading is also to be kept to an absolute minimum within these

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**Construction Guidelines for Residential Development**

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transitional areas. Where minor regrading is necessary, native topsoil should be reinstated. The above-noted measures are meant to encourage the development of a natural edge. Plantings along these edges should allow for the rapid establishment of appropriate native species.

8. **Identified and follow haul routes at all times.** Unacceptable environmental damage may occur if the vehicles deviate from the haul roads. For example, soil compaction may occur and cause stress to plants; habitat may be destroyed; foraging and nesting sites may be damaged.
9. **Prepare and Implement an erosion control plan.** The plan should be used each time the community undergoes any type of construction or re-construction.
10. **Identify areas for Soil Storage and Burn/Rubbish Piles.** Service roads to the storage areas should be identified.
11. **Respect all wildlife as an important part of the ecosystem.**
  - Avoid harming wildlife, both plants and animals.
  - Call for help in removing animals you are not comfortable with.
  - If threatened or endangered species are identified on site, do not disturb. Call for assistance before attempting to relocate these species. Contacts should be notified at WCI Environmental Services (941-498-8506) and Audubon International (941-405-0908).
12. **No littering.**
  - Contain trash and remove it to an approved disposal site.
13. **Do not wash out concrete equipment in drainage ditches or storm drains.**
  - Conduct concrete wash out in contained areas, allow materials to harden, and remove them to an approved disposal site.
14. **Develop an education program for construction workers.** A 15 to 20 minute session with the contractor, including the supervisors and operators, provides a common vision for the property. The contractor and everyone knows expectations. An effective way to present this is with an 8½" x 11" brochure. It should highlight (by 'bulleted' points) the major protection areas, and what the contractors should and should not do in particular areas.
15. **Direct surface and subsurface drainage from construction areas over vegetative buffers, through vegetative swales, or into sumps, or similar devices before discharging to surface waters.** The use of these devices protect surface waters (i.e., protect them from unwanted chemical inputs). Many different means to this end exist, we want to find the means that make the most sense for the specific property. The use

## Construction Guidelines for Residential Development

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of vegetated swales to direct runoff waters, or buffers constructed from native plant materials, or artificial wetlands for secondary treatment are effective in minimizing the effect from the direct input of drainage waters.

- 16. Build bridge crossings so that the impact to the environment is minimized during construction.** Erosion barriers described in the Erosion Control Plan (silt fence with hay bales, and sedimentation ponds where needed) will be in place for bridge crossings. Bridge construction will be conducted so that construction equipment does not enter a stream, wetland or other water body; rather, only the location of the footings will disturb the bottom areas. The bridges are built with the bridge itself as the work platform. Clearing should be by hand to avoid damaging the wetland with heavy equipment.
- 17. Establish a nursery on the site.** Natural vegetation that is removed from the site should be appropriately potted and held in the nursery until it is time to revegetate the property. The nursery needs to be in an area that has electricity and water, and that is convenient to revegetation locations.
- 18. Follow guidelines for on-site fuel storage.** Fuel tanks that are temporarily stored on site must be properly located and protected to minimize the possibility of spills and environmental impacts.

  - Fuel or chemical storage tanks should not be placed within 50 feet of any environmentally sensitive areas. These areas include lakes, creeks, wetlands, stormwater treatment structures, etc.
  - All storage tanks are require to have secondary containment. At a minimum, an earthen berm must be constructed around the tank. This berm must sized to contain at least a third of the total tank volume in case of a tank rupture or equipment failure.
- 19. In case of a fuel or chemical spill, follow appropriate response procedures for containment and cleanup.**

  - Report spills to on-site supervisor.
  - In the case of a fuel or chemical spill, immediately contact appropriate staff at WCI Environmental Services (941-498-8506) and Audubon International (941-405-0908) to arrange containment and cleanup.
  - If possible, collect information such as type of fuel or chemical, estimated volume of spill, and any other hazardous/safety information. Do not attempt to cleanup spills without first contacting WCI Environmental Services and Audubon International.
- 21. Follow approved dewatering practices.** Dewatering activities must meet all regulatory requirements. Waterbodies, wetlands, natural save areas, and other environmentally sensitive resources should be protected from dewatering discharges. Care must also be taken to ensure that erosion and sedimentation control practices are properly installed and functioning.

**EXHIBIT "F"**  
**(Specific Village Use Restrictions Applicable to Villages A, B and C)**  
**Page 1 of 7**

This Exhibit is attached to and shall form a part of that certain Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek (capitalized terms used herein without definition shall have the same meaning as given to such terms in the aforescribed Declaration), and contains the Village Specific Use Restrictions applicable to only those portions of Eagle Creek known as Villages A, B and C as depicted in the Land Use Plan. For further purposes of this Exhibit "F" only, the aforescribed Villages shall hereinafter be referred to as the "Specified Villages". The restrictions set forth herein are provided in addition to those set forth in the Compatibility Plan and/or the Design Guidelines.

1. Land Use and Building Type. No Lot, nor building on a Lot, shall be used for any purpose other than residential purposes and no Lot shall have more than one (1) residential structure. Temporary uses by Declarant and its affiliates or assigns for model homes, sales displays, parking lots, sales offices, and other offices, or any one or combination of such uses, shall be permitted until permanent cessation of such uses takes place. No changes may be made in buildings erected by Declarant or its affiliates (except if such changes are made by Declarant) without the consent of the ARB as provided herein.

2. Permitted Use and Restriction Against Short Term Rentals. Except as provided in Article VIII, Section 10 of the Declaration, Lots within the Specified Villages shall be approved as and used, occupied and enjoyed solely and exclusively for single family residential dwelling purposes and no other uses or purposes whatsoever. There shall be no "short term" rentals of any dwellings, or portions thereof, on any Lot. For purposes of this Declaration, a "short term" rental shall be defined as any rental for a period of less than six (6) full calendar months.

3. Minimum Square Footage. No building shall be erected, altered, placed, or permitted to remain on any Lot other than (i) one (1) detached, single-family residence with air conditioned living area of not less than: 1,500 square feet for 50 foot or smaller Lots, 1,600 square feet for 60 foot Lots, 1,800 square feet for 70 foot, 80 foot and 90 foot Lots, and 2,000 square feet for 100 foot or larger Lots or (ii) one (1) attached single-family residence with air conditioned living area of not less than 1,000 square feet; and in each case a private enclosed garage for not less than two (2) nor more than four (4) cars; provided, however, that the ARB shall have the authority to approve variances or modifications to the aforescribed air conditioned living area requirements when circumstances such as irregular lot shape or topography or natural obstructions prevent construction upon a Lot of a single-family residence in compliance with such air conditioned living area requirements. For purposes of this Declaration, the size of a Lot shall be measured based on the width of the Lot at its front yard building setback line. Unless approved by the ARB as to use, location and architectural design, no garage, tool or storage room or other auxiliary structures may be constructed separate and apart from the residence, nor can any of the aforementioned structures be constructed prior in time to the construction of the main residence. No guest house is to be constructed on any Lot unless the location, use and architectural design is approved by the ARB.

**EXHIBIT "F"**  
**(Specific Village Use Restrictions Applicable to Villages A, B and C)**  
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4. Roofs. Roofs shall have a pitch of at least 6/12 unless otherwise approved by the ARB. Flat roofs shall not be permitted unless approved by the ARB. Such areas where flat roofs may be permitted are Florida rooms, porches, and patios. There shall be no flat roofs on the entire main body of an improvement. The ARB shall have discretion to approve flat roofs on part of the main body of an improvement, particularly if modern or contemporary in design. No built-up roofs shall be permitted, except on approved flat surfaces.

5. Garages. Each Lot shall be developed to include at least a two (2) car garage. All garages must have a minimum width of twenty feet (20') for a two (2) car garage, or thirty (30) feet for a three (3) car garage; measured from the exterior walls of the garage. All garages must have a minimum depth of twenty (20) feet on two (2) stalls of the garage, measured from the inside walls of the garage. Side-entry garage entrances and rear-yard garage entrances are encouraged where feasible. The ARB shall have the authority to approve all garages. All garages must have: (i) for a two car garage, a single overhead door with a minimum door width of sixteen (16) feet or two (2) overhead doors with a minimum width of seven (7) feet each; or (ii) for a three car garage, an overhead door with a minimum door width of eight (8) feet and an overhead door with a minimum door width of sixteen (16) feet, or three (3) overhead doors, each with a minimum door width of eight (8) feet.

6. Driveways and Sidewalks. Paved driveways extending to a public right-of-way and at least sixteen (16) feet in width shall be constructed at the entrance to the garage. All driveways must be constructed, at a minimum, of concrete. The concrete shall be scored to provide for expansion. Alternate patterns, materials or banding combined with the concrete to provide scale and visual interest is encouraged, subject to ARB approval. When curbs are required to be broken for driveway entrances, the curb shall be repaired in a neat and orderly fashion and in such a way as to be acceptable to the ARB. A concrete sidewalk at least four (4) feet wide is required on each Lot and shall connect with the sidewalk on adjacent property, corner Lot, front and side. No driveway shall be any closer than two (2) feet from the side yard property line.

7. Concrete Block. Concrete block shall not be permitted on the exterior of any house or detached structure, unless finished with stucco. The ARB shall discourage the use of imitation brick and encourage the use of materials such as brick, stone, wood and stucco, or a combination of the foregoing.

8. Walls, Fences, Hedges and Hurricane Panels. No walls, fences or hedges shall be constructed or placed on any Lot, except (i) a six (6) foot high, white, PVC fence along the rear lot line of Lots which share a rear lot line with an adjacent Lot, if such fence is approved by the ARB, and (ii) those hedges that are approved by the ARB, in its sole discretion.

9. Landscaping. A landscaping plan for each Lot must be submitted to and approved by the ARB. Unless the ARB finds that extenuating circumstances exist, the ARB will not approve any landscaping plan that does not show a minimum expenditure of at least Two

**EXHIBIT "F"**  
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Thousand Five Hundred Dollars (\$2,500.00) for each 50-foot Lot, Three Thousand Dollars (\$3,000.00) for each 60-foot Lot, and Four Thousand Dollars (\$4,000.00) for each 70-foot Lot or 80-foot Lot, which amounts do not include the costs for irrigation systems, sod and trees planted between any sidewalk and any right-of-way adjacent to such Lot, and subject to adjustment, to account for inflation and increases in the costs of labor and materials, pursuant to the rules and regulations of the ARB. Sod must be St. Augustine "Palmetto" grass or its equivalent, and will be required on all yards. Each Lot must have shrubs on front and side yards. Landscaping shall be provided along the side property line on the garage facing side of the lot as a buffer to the neighbor. Side yard buffer plants shall not extend any closer than ten (10) feet to the right of way line. Each Lot shall be required to have the front, rear and side yards irrigated by an automatic sprinkler system providing full coverage, as approved by the ARB. Each Lot shall be required to have at least one (1) tree planted between the sidewalk and right-of-way adjacent to such Lot; provided, however, that for corner Lots the street tree requirement shall be three (3) trees, one (1) tree in the area adjacent to the front yard and two (2) trees in the area adjacent to the side yard.

A Xeriscape or Florida Friendly Landscape landscaping plan for a Lot will be permitted as and to the extent required by applicable Florida law, including, but not necessarily limited to, Florida Statutes Section 720.3075(4), as same may be amended from time to time. For purposes of this Declaration, "Xeriscape" or "Florida Friendly Landscape" means quality landscapes that conserve water and protect the environment and are adaptable to local conditions and which are drought-tolerant, and the principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance. The foregoing definition may be modified by the ARB from time to time consistent with applicable Florida law. Any Xeriscape or Florida Friendly Landscape landscaping plan will be subject to review and approval by the ARB, consistent with the terms of this Declaration and the rules and regulations of the ARB, including, but not necessarily limited to, any rules or regulations of the ARB or Use Restrictions enacted by the Association governing the implementation of Xeriscape or Florida Friendly Landscape landscaping plans within the Property.

10. Maintenance. Each Owner shall maintain its Lot, including all landscaping and improvements, in a manner consistent with this Declaration, the rules and regulations of the Association and the Community-Wide-Standard. Unless and until maintenance of such areas is assumed by the Association, each Owner shall also be responsible for maintaining and irrigating landscaping lying between the boundary of such Owner's Lot and any public right-of-way or any wall or fence; provided, however, that no Owner shall remove any trees, shrubs or other vegetation from these areas without the prior written approval of the Association.

11. Mailboxes. No mailbox or paperbox or other receptacle of any kind for use in the delivery of mail or newspapers or magazines or similar material shall be erected on any Lot unless and until the size, location, design, color and type of material for said boxes or receptacles shall have been approved by the ARB. If and when the United States mail service or the



**EXHIBIT "F"**  
**(Specific Village Use Restrictions Applicable to Villages A, B and C)**  
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newspaper or newspapers involved shall indicate a willingness to make delivery to the individual dwellings, the type and placement of such receptacles, if any, shall be determined by the ARB.

12. Utility Connections. All connections for utilities including, but not limited to, water, sewerage, electricity, gas, telephone and television shall be run underground from the proper connecting points to the improvement in such a manner to be acceptable to the governing utility authority.

13. Pets, Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot; provided, however, household, domesticated pets as allowed by Orange County Code may be kept on each Lot so long as they are not kept, bred or maintained for any commercial purpose, and provided that they do not become a nuisance or annoyance. The keeping of pets shall be governed by rules and regulations of the ARB. No dog houses or fenced runs shall be allowed on any Lot.

14. Commercial Trucks, Trailers, Campers and Boats; Parking. No commercial vehicle (including, but not limited to, panel trucks, limousines, trucks with equipment racks, delivery trucks, or any vehicle that exceeds twenty-two feet in length), recreational vehicle (including, but not limited to, personal watercraft, all terrain vehicles, two-wheeled dirt bike motorcycles and boats), camper, mobile home, motor home, boat, house trailer, boat trailer or trailer of any other description, shall be permitted to be parked or stored at any place within the Specified Villages, unless Declarant designates specifically certain spaces for some or all of the above. Provision for temporary visitation may be established by the ARB. This prohibition of parking shall not apply to temporary parking of commercial vehicles, such as for pick-up and delivery and other commercial services, nor to vehicles for personal use (including personal water craft, recreational vehicles, boats and boat trailers) which are stored within enclosed garages and are in acceptable condition in the sole opinion of the Board (which favorable opinion may be changed at any time), nor to any vehicles of Declarant or its affiliates or any building contractor designated by Declarant in writing.

No car, truck or vehicle of any kind shall be permitted to be parked overnight on any street, sidewalk or other area maintained by the Association.

Any vehicle parked in violation of these or other restrictions contained herein, or in the ARB's rules and regulations, may be towed by the Association at the sole expense of the owner of such vehicle, if such vehicle remains in violation for a period of twenty-four (24) hours from the time a notice of violation is placed on the vehicle. The Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reasons, shall be grounds for relief of any kind. For purposes of this paragraph, "vehicle" shall also mean campers, mobile homes, personal water craft, all terrain vehicles, boats and trailers; and an affidavit of the person posting such notice stating that it was properly posted shall be conclusive evidence of proper posting.

**EXHIBIT "F"**  
**(Specific Village Use Restrictions Applicable to Villages A, B and C)**  
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No vehicles commonly known as "three-wheelers", "two-wheel dirt bikes", "all-terrain vehicles", or "go carts" or any other form of similar motorized transportation shall be operated within the Specified Villages.

15. No Outdoor Drying. No clothing, laundry or wash shall be aired or dried outside of any building structure on any Lot and no outdoor drying apparatus shall be placed on any Lot, unless such clothing, laundry, wash and drying apparatus are fully screened from view from adjacent property and streets by fencing or landscaping.

16. Unit Air Conditioners, Screening of Equipment and Reflective Materials. No air conditioning units may be mounted through windows or walls unless approved by the ARB. No building shall have any aluminum foil placed in any window or glass door or any reflective substance or other materials (except standard window treatments) placed on any glass, except such as may be approved by the ARB for energy conservation purposes. All air conditioning units, l.p. tanks, and pool pumps and other equipment must be screened from view from the adjacent street by appropriate landscaping either approved by the ARB or specifically described in the Architectural Guidelines.

17. Exterior Antennas. No exterior antennas and no citizen band or short wave antennas or satellite dishes in excess of eighteen inches (18") in diameter shall be permitted on any Lot or improvement thereon, except that Declarant and its affiliates shall have the right to install and maintain community antenna, microwave antenna, dishes, satellite antenna and radio, television and security lines. The location of any approved satellite dish or antenna must be approved by the ARB, which may require appropriate screening; provided, however, that the satellite dish shall be allowed in the least obtrusive location where the satellite signal may be received.

18. Chain Link Fences. No chain link fences shall be permitted on any Lot or portion thereof, unless installed by Declarant or its affiliates during construction periods.

19. Skateboard Ramps. No ramps or other structures for skateboards, roller blades, scooters or similar equipment shall be permitted on any Lot or on the Property at any time.

20. Solar Heating Panels. For aesthetic purposes, the location, type and design of solar heating panels must be approved by the ARB prior to installation, which may require landscape screening, and shall be installed so as not to face any street.

21. Basketball Goals and Equipment. No permanent basketball goals, backboards, poles or other equipment shall be allowed. No temporary basketball goals, backboards, poles and other equipment shall be allowed without the approval of the ARB as to the use and location. All backboards must be set behind the front building face and no closer than ten (10) feet from the side property line and must be made of clear Plexiglas or other clear (see through) material approved by the ARB. All basketball poles and other structural apparatus must be painted black.

**EXHIBIT "F"**  
**(Specific Village Use Restrictions Applicable to Villages A, B and C)**  
**Page 6 of 7**

All Owners shall maintain their basketball equipment in good condition. No basketball goals or other basketball equipment shall be permitted on the street-side yard of corner Lots. All basketball goals and other basketball equipment must be located away from streets in the rear yard if the Owner's garage is located by the street-side yard. If the Owner's garage is not located by the street-side yard, normal basketball equipment rules as contained herein shall apply. Time of play of basketball on Lots shall be limited by the ARB.

22. Children's Play Structures. Prior to placement on any Lot, the location of any children's play structure, whether temporary or permanent, shall be approved by the ARB in its sole discretion. Children's play structures shall not have any material coverings or canopies except those approved by the ARB, which may require a specific type, design, material and color. The ARB, in its sole discretion, may require children's play structures to be partially screened by landscaping, trees, fences or walls. Playground structures must be positioned behind the front face of the house and no closer than ten (10) feet from the side property line.

23. Outside Storage and Storage Sheds. No stripped, unsightly, offensive, wrecked, junked or dismantled vehicles, or portions thereof, no furniture or appliances designed for normal use or operation within (as distinguished from outside) a building structure, or any other debris or unsightly material, shall be parked, permitted, stored or located upon any Lot. No open outside storage on any Lot is permitted. No lumber, brick, stone, cinder block, concrete or any other building materials, scaffolding, mechanical devices or any other thing used for building purposes shall be stored on any Lot, except for purposes of construction on such Lot, and they shall not be stored for longer than that length of time reasonably necessary for the construction in which same is to be used.

Storage sheds or similar structures are not permitted on any Lot; provided, however, that storage rooms attached to the residential structure on a Lot may be permitted by the ARB as a home addition.

24. Owner's Obligation to Rebuild. If all or any portion of a structure on any Lot is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner thereof, with all due diligence, to rebuild, repair, or reconstruct such structure in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within two (2) months after the damage occurs, unless prevented by governmental authority, in which case within the time allowed by the governmental authority.

25. Soliciting. No soliciting shall be allowed at any time within the Property.

26. Drainage. All stormwater from any Lot shall drain into or onto contiguous or adjacent street rights-of-way, drainage easements, or retention areas, all in accordance with the applicable governmental approvals. Stormwater from any Lot shall not be permitted or allowed to drain or flow unnaturally onto, over, under, across or under any contiguous or adjacent Lot

**EXHIBIT "F"**  
**(Specific Village Use Restrictions Applicable to Villages A, B and C)**  
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unless a drainage easement shall exist for same and same is done in accordance with any and all applicable governmental permits and approvals. All work done on any Lot affecting or pertaining to the Lot grade, original drainage plan, the flow of surface water, stormwater drainage, the alteration or removal of any drainage or environmental berm or swale or any storm berm or swale, must be in accordance with the site grading and drainage plans for the Lot as approved by Orange County.

27. Flags. A maximum of one (1) United States flag may be displayed on any Lot; provided, however, that the flag must be displayed in a respectful way consistent with Title 36, United States Code, Chapter 10 and any local ordinances.

28. Solar Equipment. No solar heating equipment or devices are permitted outside of any enclosed structure on any Lot, except such devices whose installation and use is protected by federal or Florida law. Notwithstanding such protection, an application for such equipment or device must be submitted for approval to the ARB prior to installation and approval and will be granted only if: (i) such equipment or device is designed for minimal visual intrusion when installed (i.e., is located in a manner which minimizes visibility from the street or any adjacent Lot and is consistent with the Community-Wide Standard); and (ii) the equipment or device complies to the maximum extent feasible with the Architectural Guidelines.

29. Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot, except in covered containers of a type, size and style which are pre-approved by the ARB or specifically permitted under the Architectural Guidelines. Such containers shall be screened from view from outside of the Lot except when they are being made available for collection and then only for the shortest time reasonably necessary to effect such collection. Rubbish, trash and garbage must be removed from the Lots and may not be permitted to accumulate on any Lot. Outdoor incinerators may not be kept or maintained on any Lot.

30. Spa and Pool Equipment. All spa and pool equipment stored on any Lot shall be screened from view from outside the Lot.

31. Use of Name "Eagle Creek". No Owner shall use the name "Eagle Creek", any logo associated with such name and used by Declarant in connection with the Property, or any derivative of such name or logo in any printed or promotional material or in any activity, without the Declarant's prior written consent. Declarant may, however, use such names and logos with respect to any property or other development activities of Declarant, without the consent of any party, including any Owner.

32. Lighting. As provided in the Compatibility Plan, all lighting shall be shielded or directed away from the property surrounding Eagle Creek.

**EXHIBIT "G"**  
**(SFWMD Permit)**

INSTR 20040009798  
OR BK 07254 PG 4159

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**  
**ENVIRONMENTAL RESOURCE PERMIT NO. 48-01290-P**

**DATE ISSUED: OCTOBER 10, 2002**



FORM #0145  
Rev. 06/95

**PERMITTEE:** EAGLE CREEK DEVELOPMENT CORPORATION  
(EAGLE CREEK)  
370 CENTER POINT CIRCLE #1136,  
ALTAMONTE SPRINGS, FL 32701

**PROJECT DESCRIPTION:** CONCEPTUAL ENVIRONMENTAL RESOURCE PERMIT FOR APPROVAL OF THE MASTER STORMWATER MANAGEMENT SYSTEM TO SERVE A 1215.72 ACRE SITE CONSISTING OF RESIDENTIAL, COMMERCIAL AND GOLF COURSE LAND USES. CONSTRUCTION AND OPERATION APPROVAL OF THE SURFACE WATER MANAGEMENT SYSTEM TO SERVE THE FIRST PHASE, WHICH INCLUDES RESIDENTIAL, GOLF COURSE AND RELATED FACILITIES.

**PROJECT LOCATION:** ORANGE COUNTY, SECTION 29 TWP 24S RGE 31E  
SECTION 32 TWP 24S RGE 31E

**PERMIT DURATION:** See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative Code.

This Permit is issued pursuant to Application No. 020528-14, dated April 29, 2002. Permittee agrees to hold and save the South Florida Water Management District and its successors harmless from any and all damages, claims or liabilities which may arise by reason of the construction, operation, maintenance or use of activities authorized by this Permit. This Permit is issued under the provisions of Chapter 373, Part IV Florida Statutes (F.S.), and the Operating Agreement Concerning Regulation Under Part IV, Chapter 373 F.S., between South Florida Water Management District and the Department of Environmental Protection. Issuance of this Permit constitutes certification of compliance with state water quality standards where necessary pursuant to Section 401, Public Law 92-500, 33 USC Section 1341, unless this Permit is issued pursuant to the net improvement provisions of Subsections 373.414(1)(b), F.S., or as otherwise stated herein.

This Permit may be transferred pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-1.6107(1) and (2), and 40E-4.351(1), (2), and (4), Florida Administrative Code (F.A.C.). This Permit may be revoked, suspended, or modified at any time pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-4.351(1), (2), and (4), F.A.C.

This Permit shall be subject to the General Conditions set forth in Rule 40E-4.381, F.A.C., unless waived or modified by the Governing Board. The Application, and the Environmental Resource Permit Staff Review Summary of the Application, including all conditions, and all plans and specifications incorporated by reference, are a part of this Permit. All activities authorized by this Permit shall be implemented as set forth in the plans, specifications, and performance criteria as set forth and incorporated in the Environmental Resource Permit Staff Review Summary. Within 30 days after completion of construction of the permitted activity, the Permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual, pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-4.361 and 40E-4.381, F.A.C.

In the event the property is sold or otherwise conveyed, the Permittee will remain liable for compliance with this Permit until transfer is approved by the District pursuant to Rule 40E-1.6107, F.A.C.

**SPECIAL AND GENERAL CONDITIONS ARE AS FOLLOWS:**

SEE PAGES 2 - 4 OF 7 (23 SPECIAL CONDITIONS).  
SEE PAGES 5 - 7 OF 7 (19 GENERAL CONDITIONS).

FILED WITH THE CLERK OF THE SOUTH  
FLORIDA WATER MANAGEMENT DISTRICT

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD

ON ~~ORIGINAL SIGNED BY:~~  
BY JENNIFER KRUMLAUF  
DEPUTY CLERK

ORIGINAL SIGNED BY:  
GARRET WALLACE JR.  
By \_\_\_\_\_  
ASSISTANT SECRETARY

## SPECIAL CONDITIONS

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1. The conceptual phase of this permit shall expire on October 10, 2004.  
The construction phase of this permit shall expire on October 10, 2007.
2. Operation of the surface water management system shall be the responsibility of MASTER ASSOCIATION. The permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association concurrent with the engineering certification of construction completion.
3. Discharge Facilities: As shown on Exhibits 4 and 25.
4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Lake side slopes shall be no steeper than 5:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth, unless shown on the plans.
8. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
9. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
10. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
11. Silt screens, hay bales, turbidity screens/barriers or other such sediment control measures shall be utilized during construction. The selected sediment control measure shall be installed landward of the upland buffer zones around all protected wetlands and shall be properly "trenched". All areas shall be stabilized and vegetated immediately after construction to prevent erosion into the wetlands and upland buffer zones.
12. The District reserves the right to require remedial measures to be taken by the permittee if monitoring or other information demonstrates that adverse impacts to onsite or offsite wetlands, upland conservation areas or buffers, or other surface waters have occurred due to project related activities.
13. An average 25' wide, minimum 15', buffer of undisturbed upland vegetation shall be maintained between the proposed development and existing wetlands. Buffers shall be

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- staked and roped and District environmental staff notified for inspection prior to clearing.
14. No later than December 10, 2002, the permittee shall provide to the District the fully executed and recorded documents depicted in Exhibits 28A-F (Conservation Easement) and 29A-Q (Drainage Agreement) to this staff report.
  15. The wetland conservation areas and upland buffer zones and/or upland preservation areas shown on Exhibit(s) 2 & 13 may in no way be altered from their natural or permitted state. Activities prohibited within the conservation areas include, but are not limited to: construction or placing of buildings on or above the ground; dumping or placing soil or other substances such as trash; removal or destruction of trees, shrubs, or other vegetation - with the exception of exotic vegetation removal; excavation, dredging, or removal of soil materials; diking or fencing; and any other activities detrimental to drainage, flood control, water conservation, erosion control, or fish and wildlife habitat conservation or preservation.
  16. Endangered species, threatened species and/or species of special concern have been observed onsite and/or the project contains suitable habitat for these species. It shall be the permittee's responsibility to coordinate with the Florida Fish and Wildlife Conservation Commission and/or the U.S. Fish and Wildlife Service for appropriate guidance, recommendations and/or necessary permits to avoid impacts to listed species.
  17. A maintenance program shall be implemented in accordance with Exhibit No. 26F-I for the preserved, enhanced and created wetland and upland areas on a regular basis to ensure the integrity and viability of those areas as permitted. Maintenance shall be conducted in perpetuity to ensure that the conservation area is maintained free from Category 1 exotic vegetation (as defined by the Florida Exotic Pest Plant Council at the time of permit issuance) immediately following a maintenance activity. Coverage of exotic and nuisance plant species shall not exceed 10% of total cover between maintenance activities. In addition, the permittee shall manage the conservation areas such that exotic/nuisance plant species do not dominate any one section of those areas.
  18. No later than December 10, 2002 and prior to commencement of construction resulting in wetland impacts, the permittee Eagle Creek Development Corporation, shall submit two certified copies of the recorded conservation easement for the mitigation area and associated buffers and a GIS disk of the recorded easement area formatted in NAD 1983 format to the District's Environmental Resource Compliance Division in the service area office where the application was submitted. The recorded easement shall be in substantial conformance with Exhibit 28A-F. Any proposed modifications to the approved form must receive prior written consent from the District. The easement must be free of encumbrances or interests in the easement which the District determines are contrary to the intent of the easement. In the event it is later determined that there are encumbrances or interests in the easement which the District determines are contrary to the intent of the easement, the permittee shall be required to provide release or subordination of such encumbrances or interests.
  19. A time zero monitoring report for wetland creation areas WC-1 and WC-2 shall be conducted in accordance with Exhibit No. 26. The plan shall include a survey of the areal extent, acreage and cross-sectional elevations of the created areas and panoramic photographs for each habitat type. The report shall also include a description of planted species, sizes, total number and densities of each plant species within each habitat type.
  20. A mitigation program for Eagle Creek shall be implemented in accordance with Exhibit No. 13 and 26A-M. The permittee shall create 4.0 acres of herbaceous wetlands, preserve 76.89 acres of uplands (17.00 acres will be enhanced) and 149.64 acres of

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wetlands (130.19 acres will be enhanced) and 5.66 acres of buffers to preserved wetlands will be enhanced.

21. No later than December 10, 2002 and prior to the commencement of construction resulting in wetland impacts, the permittee shall provide an original escrow account Agreement in the amount of \$221,100.00 to ensure the permittee's financial ability and commitment to complete the proposed mitigation, monitoring and maintenance plan as shown on Exhibits No. 13 & 26A-K. The escrow account shall be in substantial conformance with Exhibit No. 30A-D. The escrow account shall remain in effect for the entire period of the mitigation and monitoring program. Notification of the District by the financial institution that the escrow account will not be renewed or is no longer in effect shall constitute non-compliance with the permit.
22. In accordance with section 4.3.7.7.1 of the Basis of Review, the permittee may request release of a portion of the financial responsibility mechanism as phases of the mitigation plan are completed. The request shall be in writing and include documentation demonstrating that success criteria as shown on Exhibit Nos. 26a-26m for that portion of the mitigation plan have been successfully accomplished to the satisfaction of District Environmental Resource Compliance Staff.
23. Activities associated with the implementation of the mitigation, monitoring and maintenance plan(s) shall be completed in accordance with the work schedule attached as Exhibit No. 31. Any deviation from these time frames will require prior approval from the District's Environmental Resource Compliance staff. Such requests must be made in writing and shall include (1) reason for the change, (2) proposed start/finish and/or completion dates; and (3) progress report on the status of the project development or mitigation effort.



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OR BK 07254 PG 4163**GENERAL CONDITIONS**

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the supplied Environmental Resource Permit Construction Completion/Certification Form Number 0881. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings is discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "As-built" or "Record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor.
7. The operation phase of this permit shall not become effective until the permittee

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has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase. Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..
12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the State, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
13. The permittee must obtain a Water Use permit prior to construction dewatering.

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unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(4), F.A.C., also known as the "No Notice" Rule.

14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding, unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.
16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.
17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

## 40E-4.321 Duration of Permits

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(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C. is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. the effective date of the local government's comprehensive plan amendment.
2. the effective date of the local government development order.
3. the date on which the District issues the conceptual approval, or
4. the latest date of the resolution of any Chapter 120.57, F.A.C., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For a noticed general permit issued pursuant to chapter 40-E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. the Governing Board takes action on an application for extension of an individual permit,

or

2. staff takes action on an application for extension of a standard general permit.
- (b) Installation of the project outfall structure shall not constitute a vesting of the permit.
- (3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.

Specific authority 373.044, 373.113 F.S. Law Implemented 373.413, 373.416, 373.419, 373.426 F.S. History—New 9-3-91, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4/20/94, Amended 7-1-86, 4/20/94, 10-3-95

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**Last Date for Governing Board Action:**  
October 10, 2002

**Water Use Staff Review Summary**

**Application Number:** 020710-4  
**Permit Number:** 48-01283-W  
**Project Name:** EAGLE CREEK  
**Water Use Permit Status:** PROPOSED

**Environmental Resource Permit Status:** PROPOSED CONCURRENTLY WITH APPLICATION NO. 020528-14.

**Right Of Way Permit Status:** NOT APPLICABLE

**Location:** ORANGE COUNTY, S28,29,32,33/T24S/R31E

**Applicant's Name and Address:** EAGLE CREEK DEVELOPMENT CORPORATION  
370 CENTER POINTE LANE SUITE 1136  
ALTAMONTE SPRINGS, FL 32701

**Purpose:**

The purpose of this application is to obtain a Water Use Permit for dewatering during the construction of stormwater management system ponds. Withdrawals are from the Water Table aquifer via two proposed withdrawal facilities. The project is located in Orange County, as shown on Exhibits 1 through 3.

**Staff Recommendations**

**Date Of Issuance:** October 10, 2002  
**Permit Duration:** 3.00 Years  
**Expiration Date:** October 10, 2005  
**Water Use Classification:** Dewatering  
**Sources:** Surface Water from: Water Table aquifer

**Recommended Allocation:**

**Annual Allocation:** 245 Million Gallons (MG)  
**Maximum Monthly Allocation:** 20.8 Million Gallons (MG)  
**Maximum Daily Allocation:** 0.67 Million Gallons (MG)

**Proposed Withdrawal Facilities - Surface Water**

Source: Water Table aquifer  
2 - - X HP X 500 GPM unspecified Pumps

<u>Rated Capacity</u>	<u>Status Code</u>	<u>GPM</u>	<u>MGD</u>	<u>MGM</u>	<u>MGY</u>
Source Water Table aquifer	P	1,000	1.44	43.8	526
<b>Totals:</b>		<b>1,000</b>	<b>1.44</b>	<b>43.8</b>	<b>526</b>



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contaminants, if present, from pollution sources as a result of the withdrawal of the recommended allocation is considered to be minimal.



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**Recommendations**

**Project Name:** EAGLE CREEK  
**Application Number:** 020710-4  
**Permit Number:** 48-01283-W  
**Date Of Issuance:** October 10, 2002

**Recommendations:**

Staff recommends approval of a Water Use Permit for dewatering during the construction of stormwater management system ponds. Withdrawals are from the Water Table Aquifer via two proposed withdrawal facilities. The use is reasonable-beneficial, will not adversely impact presently existing legal users and is consistent with the public interest. The use is further subject to 29 bonding conditions.

**Application Reviewer:** George M. Ogden, Jr. Date: 9/23/02  
George M. Ogden, Jr., P.G.

**Supervisor:** Keith R. Smith Date: 9/23/2002  
Keith R. Smith, P.G.

**Water Use Division:** Wm. Scott Burns Date: 9/24/02  
Wm. Scott Burns, P.G.

**Limiting Conditions**

1. This permit shall expire on October 10, 2005.
2. Application for a permit modification may be made at any time.
3. Water use classification:

Dewatering water supply

4. Source classification:

Surface Water from:  
Water Table aquifer

5. In the event of a declared water shortage, water withdrawal reductions will be ordered by the District in accordance with the Water Shortage Plan, Chapter 40E-21, F.A.C. The Permittee is advised that during a water shortage, pumpage reports shall be submitted as required by Chapter 40E-21, F.A.C.
7. Withdrawal Facilities:

Surface Water - Proposed:

2 - " x HP X 500 GPM unspecified Pumps

8. Permittee shall mitigate any adverse impacts to existing legal uses as a consequence of withdrawals permitted herein. When adverse impacts occur, or is imminent, the District reserves the right to curtail withdrawal rates. Adverse impacts are:

- A) reduction in well water levels that impairs the ability of an adjacent well, including a domestic well, lawn irrigation well, or public water supply well, to produce water by 10% or greater,
- B) significant reduction in levels in an adjacent water body, such as a lake, pond, or a canal system, that impairs the ability to produce water by 10% or greater,
- C) saline water intrusion or induced movement of pollutants into the water supply of an adjacent water use, resulting in a significant reduction in water quality, and
- D) change in water quality caused by the permittee that results in significant impairment or loss of use of a well or water body.

9. Permittee shall mitigate any adverse impact to existing off-site land use as a consequence of withdrawals permitted herein. If increased withdrawals cause an adverse impact on existing land use, the District reserves the right to curtail future withdrawal rates. Adverse impacts are:

- A) significant reduction in water levels in an adjacent surface water body, including impoundments, to the extent that the designed function of the water body is impaired,
- B) land collapse or subsidence caused by reduction in water levels; and
- C) damage to crops and other types of vegetation.

10. If adverse impacts occur to natural resources as a result of the Permittee's water withdrawals, the Permittee shall mitigate for such impacts. When adverse impacts occur, or are imminent, District reserves the right to curtail withdrawal rates. Examples of adverse impacts are:

- A) reduction in ground water levels that results in significant lateral movement of the fresh water/salt water interface,
- B) reduction in water levels that adversely impact the hydroperiod of protected wetland environments,
- C) significant reduction in water levels or hydroperiod in a naturally occurring water body such as a lake or pond,
- D) induced movement or induction of pollutants into the water supply resulting in a significant reduction in water quality, and
- E) significant damage to the natural system including damage to habitat for rare or endangered

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### Limiting Conditions

species.

11. If any condition of the permit is violated, the permit shall be subject to review and possible modification, enforcement action, or revocation.
12. Authorized representatives of the District shall be permitted to enter, inspect, and observe the permitted system to determine compliance with special conditions.
13. The Permittee is advised that this permit does not relieve any person from the requirement to obtain all necessary federal, state, local and special district authorizations.
14. The permit does not convey any property right to the Permittee, nor any rights and privileges other than those specified in the Permit and Chapter 40E-2, Florida Administrative Code.
15. Permittee shall submit all data as required by the implementation schedule for each of the limiting conditions to: S.F.W.M.D., Supervising Hydrogeologist - Post-Permit Compliance, Water Use Regulation Dept. (4320), P.O. Box 24680, West Palm Beach, FL 33416-4680.
16. The Permittee is advised that this Permit does not relieve the Permittee of complying with all county, state, and federal regulations governing these operations, maintenance, and reclamation of the borrow pit.
17. All dewatering water shall be retained on the Permittee's land. Off-site discharge of dewatering effluent shall not be made.
18. The excavation shall be constructed using sound engineering practice. If the excavation endangers the properties of adjacent owners through erosion, side wall collapse, etc., the Permittee shall cease operation upon notification by the District until a method to prevent such occurrences is found and instituted.
19. Permittee shall immediately cease dewatering when continued dewatering would create a condition hazardous to the health, safety, and general welfare of the people of the District.
20. Permittee shall comply with turbidity and general water quality standards for surface discharge into receiving streams, as established by Chapter 62-302, Florida Administrative Code.
21. Permittee shall not lower the water table below the following depths:  
28.0 feet NGVD.
22. A copy of the permit, its limiting conditions, and dewatering plan is required to be kept on site at all times during dewatering operations by the lead contractor or site manager.
23. Prior to withdrawing water as authorized by this Permit, the Permittee shall provide the results of the calibration testing of the identified water accounting method(s) and equip all existing and proposed withdrawal facilities with approved water use accounting method(s) pursuant to Section 4.1 of the Basis of Review for Water Use Permit Applications.
24. Monthly withdrawals for each withdrawal facility shall be submitted to the District quarterly. The water accounting method and means of calibration shall be stated on each report.
25. The Permittee's monitoring plan shall be implemented as follows:  
Water quality samples shall be collected and analyzed as specified in the Turbidity Monitoring Plan.
26. The Permittee shall conduct dewatering activities in adherence to the following operating plan:  
The operational plan specified in the Dewatering Plan.
27. Prior to initial dewatering, the Permittee shall contact the District to allow for a site visit to verify:
  - A) The water use accounting method used by the contractor and receive results of calibration testing of the identified method.
  - B) The location and design of the recharge trenches and on-site retention areas where dewatering

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