

This instrument prepared by and return to:

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CONDITIONS, AND RESTRICTIONS  
for  
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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
HUNTINGTON PLACE**

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**KNOW ALL MEN BY THESE PRESENTS:**

**THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR HUNTINGTON PLACE** (hereinafter referred to as the "Declaration"), is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2007 by **FOSTER I.R.C., LLC., a California limited liability company** (said party being hereinafter referred to as either the "Developer" or the "Declarant").

**WITNESSETH:**

**WHEREAS**, Declarant is the owner in fee simple of that real property more particularly described on EXHIBIT "A" attached hereto and incorporated herein by reference, located in Indian River County, Florida (hereinafter referred to as the "Property"); and

**WHEREAS**, Declarant desires to subject said Property to the provisions of this Declaration and to create on the Property a residential community on all or part of the Property described in EXHIBIT "A"; and

**WHEREAS**, Declarant desires to create a harmonious and attractive development on the Property; and in addition, Declarant desires to provide a flexible and reasonable method for the administration, operation, maintenance, and development of such Property.

**NOW THEREFORE**, for valuable consideration, in hand paid and received, the receipt and sufficiency of which are hereby acknowledged, and for the purposes of protecting the value, attractiveness, and desirability of the Property the Declarant hereby declares that all of said Property shall be held, sold, and conveyed subject to the following easements, covenants, conditions, restrictions, and limitations, which shall run with the Property submitted to this Declaration and which shall be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors, successors-in-title, and assigns, and which shall inure to the benefit of each Owner thereof, as hereinafter defined, and to the Declarant, as more particularly provided hereunder.

## **ARTICLE I DEFINITIONS**

**Section 1. "Architectural Review Board"** (hereinafter referred to as "ARB") shall mean and refer to a board of members appointed by the Board of Directors of the Association for the primary purpose of assuring that all Owners of lots improve and maintain the said lots and all structures located thereon in conformity with restrictions, covenants and architectural requirements described herein and in any related documents created by Declarant.

**Section 2. "Association"** shall mean and refer to the Huntington Place Property Owners' Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

**Section 3. "Common Area"** shall mean all of the portions of the Property now or hereafter owned by the Association for the common use and enjoyment of each Owner, including but not limited to the Stormwater Management Tract, as depicted on the Plat. The Roadways, as hereinafter defined, shall be deemed part of the Common Area for purposes of this Declaration.

**Section 4. "Developer" or "Declarant"** shall mean and refer to the parties named above, and their successors and assigns.

**Section 5. "Easements" or "easements"** shall mean that portion of the Property including lots or portions thereof, which have heretofore or which may hereafter be set aside by the Declarant for the limited or common use of the Declarant, Owners, their invitees, guests, successors or assigns for ingress, egress, utilities, water sewer, lighting, drainage, or otherwise and for all purposes related to the Huntington Place Property Owners' Association, Inc. or as may be indicated on any plat filed among the Public Records of Indian River County. Easements include, but are not limited to, Conservation Easements, Utility Easements, Drainage Easements, and other easements depicted on the Plat.

**Section 6. "Huntington Place Property Owners' Association, Inc." or "Association"** shall mean and refer to the Huntington Place Property Owners' Association, Inc., a Florida corporation not-for-profit, which corporation has been formed for the primary purpose of enforcing the covenants, conditions, restrictions and limitations contained herein and whose membership shall be comprised of all Owners of the lots in Huntington Place Property Owners' Association, Inc.

**Section 7. "Lift Station" or "Pumping Station"** shall mean that certain structure housing (Wet Well, as defined below), pumps, piping, valves, and auxiliary equipment to collect waste water sewage from the community's sanitary collection system.

**Section 8. "Lot" or "lot"** shall mean a portion of the Property intended for any type of separate, independent ownership, exclusively for residential use. The lots are graphically depicted on the plat of Huntington Place Property Owners' Association, Inc. There exist one hundred forty-one (141) Lots in the Subdivision.

**Section 9. "Member" or "member"** shall mean any Owner who is a member of the Association. All Owners are and shall be required to be Members of the Association.

**Section 10. "Owner" or "owner"** shall mean and refer to the record owner, whether one (1) or more persons or entities, of any one (1) of the which constitute part of the Property but excluding any party holding the fee simple title merely as security for the performance of an obligation. Owner shall include Declarant as to each and every lot owned by Declarant.

**Section 11. "Plat"** shall mean the Plat of Huntington Place Subdivision, as recorded in the Public Records of Indian River County, Florida.

**Section 12. "Property"** shall mean and refer to the real property described on EXHIBIT "A" attached hereto and incorporated herein by reference. The Property shall also be deemed to include the area where the Surface Water Management System is located.

**Section 13. "Roadways"** shall mean those private Roadways depicted on the Plat of the subdivision, including Sequoia Circle, Indiangrass Drive, Summersweet Lane, Bearberry Drive, and Manzanita Way. Said Roadways shall be maintained and preserved collectively by all of the Owners pursuant to Article V hereof.

**Section 14. "Structure"** shall mean any thing or object (other than trees, shrubbery and other landscaping) the placement of which upon any lot may affect the appearance of such lot including but not limited to any building or part thereof, garage, porch, balcony, shed, greenhouse, bathhouse, barbecue pit, patio, swimming pool, television or radio antenna, clotheslines, fence, curbing, paving, wall, recreational facilities, lawn decorative objects including but not limited to statues and tables, living quarters of any nature or any other temporary or permanent improvements to such lot and any excavation, fill, ditch, dune or other thing or device which affects or alters the natural flow of surface water from or across any lot or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any lot.

**Section 15. "Subdivision" or "community"** shall mean Huntington Place Subdivision, as described in and on the Plat.

**Section 16. "Surface Water Management System" or "Storm Water Management System" or "system"** shall mean a system which is designated and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.

**Section 17. "Wet Well"** shall mean the below grade compartments of a pumping station into which the liquid flows and from which the pumps draw suction. Other definitions appear, as well, below and throughout this Declaration.

**Section 18. "Residence" or "residence"** shall mean any single-family dwelling unit located upon a Lot within the Property.

**Section 19. "The Board" or "Board"** shall mean the Board of Directors of the Association.

**Section 20. "Conservation Areas"** shall mean those portions of the Property designated as conservation or preservation areas on the Plat, which areas may include, without limitation, certain jurisdictional wetlands, developable uplands which have been restricted to be used to promote habitat conservation and preservation and to protect environmental resources within the Property in accordance with, and subject to, the Conservation Easements which set forth the permitted uses of those areas. To the extent that any Conservation Areas are owned or maintained by the Association, such Conservation Areas shall be deemed to be Common Property, as applicable.

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

The Property, which is owned by the Declarant and shall henceforth be held, transferred, sold, conveyed and occupied subject to this Declaration, is located in Indian River County, Florida, and is legally described on EXHIBIT "A" attached hereto and incorporated herein by reference.

**ARTICLE III**  
**PROPERTY RIGHTS AND OBLIGATIONS OF OWNERS**

The Property, which is owned by the Declarant and shall henceforth be held, transferred, sold, conveyed and occupied subject to this Declaration, is located in Indian River County, Florida, and is legally described on EXHIBIT "A" attached hereto and incorporated herein by reference. Owners shall have the following rights and obligations:

**Section 1. Owner's Easement of Enjoyment.** Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot, subject to:

(a) the right of the Association to borrow money for the purpose of improving the Common Area, or any portion thereof, for acquiring additional property to be added to the Common Area, or for constructing, repairing, or improving any facilities located or to be located thereon, and to give as security for the payment of any loan a mortgage pledging and encumbering all or any portion of the Common Area; provided, however, that the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any and all rights, interests, options, easements, and privileges herein reserved or established for the benefit of Declarant or any Owner, or the holder of any mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any lot located within Huntington Place Property Owners' Association, Inc.

(b) the Articles of Incorporation and By-Laws of the Association and any Rules and Regulations adopted by the Association, as the same may be altered or amended from time to time; and the requirements of the Plat as imposed by Indian River County, Florida.

(c) Each Owner of a lot shall have a nonexclusive right of ingress and egress over and upon the Roadways for access to and from said Owner's lot.

**Section 2. Delegation of Use.** Any Owner may delegate in accordance with the By-Laws of the Association said Owner's right of enjoyment to the Common Area and facilities to the members of said Owner's family, tenants, other social invitees and contract purchasers who reside on the Property.

**Section 3. Owner's Right of Ingress, Egress, and Support.** Each Owner in addition to the other rights specified herein shall have the right of ingress and egress over, upon and across the Common Area necessary for access to said Owner's lot and shall have the right to lateral support for said Owner's lot and such rights shall be appurtenant to and pass with the title to each lot.

**Section 4. Regulation of and Use of Lots and Residences.** Except as provided hereinbelow, each lot shall be used for residential purposes only. Lease or rental of a residence for residential purposes shall not be considered to be a violation of this covenant for so long as the lease is in compliance with the rules and regulations as may be promulgated by the Board of Directors. Any lessee or tenant is and shall be in all respects subject to the terms and conditions of this Declaration and the rules and regulations adopted hereunder. No specific lease provision to this effect is required, and any such lessee or tenant is charged with notice of this provision and the Declaration, generally. Without the prior written consent of the Association's Board of Directors, nothing shall be done or kept in any lot or in the Common Area or any part thereof to increase the rate of insurance on the Property or any part thereof over what the Association, but for such activity, would pay. Noxious, destructive or offensive activity, or any activity constituting a nuisance shall not be carried on in any lot or in the Common Area or any part thereof, and the Association shall have standing to initiate legal proceedings at law and/or in equity to abate such activity. Each Owner shall refrain from any act or use of said Owner's lot which could reasonably cause embarrassment, discomfort, or annoyance to any other Owner. The Board of Directors of the Association is hereby granted and shall have the power to make and to enforce reasonable rules and regulations in furtherance of this provision.

All lots shall only be used as Residential Property. No building structure shall be erected, placed or permitted to remain on any lot other than a residential single-family dwelling unit. Developer shall be permitted to place or erect temporary structures upon lots owned by the Developer and Common Property to be used in connection with its development and sales activities.

Notwithstanding the above, the following supplemental and additional covenants, conditions, and restrictions, also enforceable by the Board of Directors of the Association, shall apply, as follows:



**(a) Leasing and Guest Occupancy.** An Owner may lease said Owner's Residence pursuant to the Rules and Regulations. No Residence may be leased for a period of less than twelve (12) consecutive months. The Board may require the payment of security deposit to the Association as a condition to any lease. Any person, other than the Owner's immediate family, companion or mate, who temporarily resides in the Residence while the Owner or the Owner's lessee is present and with the permission of the Owner or the Owner's lessee, and without monetary consideration, shall be deemed a guest. Guest shall be registered with the Association if residing in the Residence for more than thirty (30) consecutive days. All tenants and guests are required to comply with the Rules and Regulations and other obligations created by this Declaration. The Board reserves the right to limit the number of tenants or guests which may reside in a Residence. The Board reserves the right to expel any tenant or guest who violates the Rules and Regulations.

**(b)** Each of the lots making up a portion of the Property subject to these Covenants and Restrictions may be used for the residential living units of one (1) family and for no other purpose. No business or commercial building may be erected on any lot and no business of any kind or variety, including garage sales, may be conducted on any part thereof. No building, structure, or other improvement shall be erected upon any lot without prior ARB written consent and approval thereof as elsewhere herein provided. In the event that one or more lots are developed as a unit, the provisions of these Covenants and Restrictions shall apply thereto as a single lot. No further subdividing of any lot shall be permitted and is expressly prohibited. No dwelling or other structure or improvement shall be erected, altered, placed or permitted to remain on any site not including at least one (1) full platted lot according to the recorded plat of Huntington Place Property Owners' Association, Inc.

**(c)** No tents, trailers, boat trailers, mobile homes or shacks shall be erected or permitted to remain on any lot without prior written approval and consent of the ARB.

No commercial vehicle, recreation vehicle, van (except for family mini-vans and sport utility vehicles used as private passenger vehicles), boat, trailer, vehicle with commercial equipment or lettering in or upon the vehicle, or unsightly vehicle of any kind shall park or be parked on the property at any time, except in the garage. Service vehicles may be temporarily parked on the Property only in connection with providing services to the Developer, the Association or to the Owner.

Owners may keep a motorcycle, moped or personal watercraft, commonly known as "jet-skis", upon their Lot provided same are kept in Owner's garage at all times when not in use. No motorcycle, moped or personal watercraft shall be parked in areas other than the residence garage. Motorcycles shall not abuse normal noise levels.

No motor vehicle shall be placed upon blocks, jacks, or similar devices upon any lot or common property for the purpose of maintenance, repair, or storage.

**(d)** A detailed landscaping plan for each residence must be submitted to and be approved by the ARB, as hereinafter provided.

**(e)** Nothing shall be done or maintained on any lot which may be or become an annoyance or nuisance to any other Owner or to the Association. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Board of Directors, which shall render a decision in writing, which decision shall be dispositive of such dispute or question.

**(f)** Except for the permitted signs/advertising stated below, no signs, advertising, notice, lettering or pictures of any kind shall be exhibited, displayed, inscribed, painted, or affixed on any part of the exterior or interior of any Residence, or upon any lot or Common Property so as to be visible from the outside of any Residence, including, without limitation, signs indicating that a Residence/Lot is for sale or for rent (i.e., "For Sale", "For Sale by Owner", "For Rent", "Not Trespassing", "Garage Sale") or any window display advertising.

No sign of any kind shall be displayed to the public view on any lot except for the following:

**(1)** Directional or traffic signs installed by the Developer or appropriate governmental authority, and signs denoting the Conservation areas.

**(2)** Signs having received prior written approval and consent of the Board of Directors.

**(3)** Address plates as approved by the Developer or the Board. Standard Security monitoring signs and other warning signs as approved by the developer or the Board, or as required by any governmental authority.

**(4)** Promotional display signs or banners used by the Developer in connection with its development and marketing activities.

**(g)** No animals, birds, or fowl shall be kept or maintained on any part of the Property except dogs, cats, and pet birds, which must be kept thereon in reasonable numbers as pets for the pleasure and use of the occupants, but not for any commercial use or purposes. All pets must be kept under control, and under leash, if off the Lot of the Owner, or fenced or restrained at all times if within the Lot of the Owner, and must not become a nuisance.

**(h)** No window or wall air conditioning units shall be permitted. As to the primary dwelling unit, all exterior pumps, motors, compressors, tanks, or similar mechanical devices shall be screened from view, such that the same are not visible from any neighboring property owner's residence.

**(i)** No time sharing, interval ownership, or other similar division of the fee simple ownership of any lot or any single family dwelling erected thereon shall be permitted. However, this provision shall not prevent the leasing of any single family dwelling to a tenant for normal single family residential purposes.

**(j)** Garbage and rubbish receptacles shall be in complete conformity with sanitary regulations and shall not be visible from the street nor from adjoining lots,

except on those days on which garbage is collected and then for no more than twelve (12) consecutive hours.

When not set out for pickup, all such containers shall be kept in their designated area and shall be kept in a clean and sanitary condition.

**(k)** No unsightly material or growths shall be permitted to remain or grow upon any lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon; and in the event that any Owner shall fail or refuse to keep said Owner's lot free of unsightly materials or refuse piles or unsightly growths or objects, then the Association without prior notice being required may enter upon said lot and remove the same at the expense of the Owner, and such entry shall not be deemed a trespass. The annual budget of the Association shall include the cost of necessary lot cleaning.

Furthermore, each and every lot during any construction period shall be maintained in an orderly condition. In the event the Association determines that a lot during any period of construction on the said lot is not being maintained in an orderly condition, notwithstanding the provisions of Article V, Section 3, below, the Association may enter upon the lot and remove any object or correct any condition that the Association in its discretion believes has created a disorderly condition on the lot.

**(l)** An Owner of a respective lot shall be directly financially responsible to the Declarant, and to the Owner of any abutting lot, and to the Association for damage to the utilities, sewer, water, landscape materials, sod and drainage systems installed by the Declarant resulting from the actions of said Owner or contractors furnishing labor or materials to or for said Owner, the foregoing requirement being independent and distinct of and from the maintenance bond required by Indian River County for repairs to the infrastructure. In the event the Declarant or the abutting Owner or Association must repair or replace any utilities, including sewer, water, drainage system, electrical, telephone lines, sod, landscaping materials, sidewalks, paving, shrubbery, trees, fences, or other improvements as a result of the actions of any Owner or contractor furnishing labor or materials to or for the benefit of said Owner, then in that event, said Owner shall pay for the cost of said repair or replacement including labor and materials; and such cost shall bear interest at the maximum legal rate allowed by the law in the State of Florida from the date of the expenditure for said replacement or repair. In the event the Association advances funds on behalf of said Owner for repair and replacement of said damaged property, said amount together with interest, court costs and attorneys' fees shall be included in the lien rights as set forth in this Declaration.

**(m)** Other than home office uses permitted by the county, no industry, business, trade, occupation or profession of any kind shall be conducted, maintained or permitted upon any Lot or in any Residence, except for the development and sales activities conducted by the Developer or any independent builder who constructs a Residence on a Lot.

**(n)** No person shall engage in loud and boisterous or disorderly, profane, indecent or unlawful conduct on any portion of the property, including, without limitation, inside the residence or on any lot or Common Property. No guns shall be permitted to

be discharge on any portion of the property, except as might be permitted in the event of an emergency pursuant to the applicable laws of the State of Florida.

**(o)** All Owners who plan to be absent from their residence during the hurricane season must, prior to departure, prepare their lot and residence by:

**(1)** Removing all outside furniture, potted plants, and other movable objects from the lot and exterior portion of the residence.

**(2)** Designate a responsible firm or individual to care for the residence should the residence suffer hurricane damage, and furnish the Board, or person designated by the Board for such purpose, with the name of said firm or individual.

**(3)** Owners are responsible for the cleanup and removal of all debris associated with a natural event.

**(p)** Except for the Developer, no Owner shall permit any service people, whether for the purposes of maintenance, repair, replacement or improvement, to work upon a Lot or in a Residence before 8:00am or after 6:00pm, or on Sundays, except in the case of emergencies.

**(q)** There shall be no solicitation permitted by any persons upon any common areas, or Lots for any cause, charity or for any purpose whatsoever, unless specifically authorized in advance by the Board.

**(r)** There shall be no Garage Sales allowed on the common areas, Lots or Residences.

**(s)** No children under the age of twelve (12) shall be permitted in or around the swimming pool without adult supervision. Further, no children shall be permitted in common areas adjacent to the storm water management system, unless accompanied by an adult. Owners and Owner's guests, lessees, servants, etc. are all responsible for their own safety and the safety of their children, and are solely responsible for any and all injuries, liabilities damages and death sustained to themselves or to their children within the property. Regulations regarding the Community Pool area shall be posted in a conspicuous place in the swimming area.

**(t)** Neither Owners nor Owner's family, guests, invitees, tenants, servants, agents, employees, shall make, produce, generate or permit any Nuisances in any Residence or upon any Lot or Common Areas that will interfere with the quiet enjoyment, rights, comforts, privacy, and convenience of other Owners. No offensive, immoral or illegal activity shall be carried on, permitted on, or maintained on any part of the property.

**(u)** No Owner shall relocate, heighten, lower or otherwise move or change any fence, wall or gate installed by the Developer on any Lot without the prior written consent of the Board.

(v) Unless otherwise posted, vehicular traffic shall at all times adhere to a maximum speed limit of 15 miles per hour.

(w) Except for temporary service vehicles, no vehicles shall be parked in any public street, or public right-of-way.

(x) Basketball hoops and standards and skateboard ramps and clothes lines and clothes trees are prohibited.

**Section 5. Easement for Access and Drainage.** The Association shall have a perpetual non-exclusive easement over all areas of the Surface Water or Stormwater Management System for access to operate, maintain, or repair the system. By this easement, the Association shall have the right to enter upon any portion of any lot which is part of the Surface Water or Stormwater Management System, at a reasonable time and in a reasonable manner, to operate, maintain, or repair the Surface Water or Stormwater Management System as required by the St. Johns River Water Management District ("SJRWMD") and Indian River County permits. Additionally, the Association shall have a perpetual, non-exclusive easement for drainage over the entire Surface Water or Stormwater Management System, including buffer areas or swales, without the prior written approval of the SJRWMD. No work of any kind, however, may be conducted in any Wetland Preserve Area or Wetland Buffer Area or Wetland Buffer Easement without the advance authorization of SJRWMD.

**Section 6. Obligations.** Owners shall have the duty and obligation to comply with and abide by all Association rules, regulations, covenants, and restrictions and all rules, regulations, covenants, and restrictions imposed by any governmental or quasi-governmental authority, including but not limited to SJRWMD and Indian River County. Each Owner is and shall be expressly prohibited from committing an act or omission that would encroach upon, trespass over, or otherwise interfere with or alter or destroy any Wetland Preserve Area or Wetland Buffer Area or Wetland Buffer Easement, as the same are or may be depicted and described on the Plat and in related Permits and Approvals, and all other areas designated on the Plat as conservation buffers or conservation tracts. The Association shall have the full right, power, and authority to enforce this provision and all other provisions of this Declaration by appropriate legal or equitable proceedings in order to insure compliance by all Owners and otherwise assure protection of all environmentally sensitive areas.

#### **ARTICLE IV**

#### **MEMBERSHIP IN ASSOCIATION; VOTING RIGHTS; COMPENSATION**

**Section 1. Membership.** Every person who is the record Owner of a fee or undivided fee interest in any single Lot within the Property that is subject to this Declaration shall be deemed to have a membership in the Association. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one (1) or more persons, shall have more than one (1) membership per Lot. With the exception of the Declarant, as specified below, the Owner of more than one (1) Lot shall have one (1) vote per Lot owned by

said Owner. In the event that a Lot is owned by more than one (1) party, votes and rights of use and enjoyment may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership. The rights and privileges of membership, including the right to vote and to hold office may be exercised by a member or the member's spouse, but in no event shall more than one (1) vote be cast nor office held for each Lot (subject to Section 2 below).

**Section 2. Voting Rights.** The Association shall have two (2) classes of voting membership:

**Class A.** Class A members shall be all Owners, other than the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any single Lot.

**Class B.** The Class B member shall be the Declarant, as defined herein, and shall be entitled to 7.45 votes for each Lot owned.

Notwithstanding the foregoing, the provisions of this Article are subject to Section 720.3075(1)(c), *Florida Statutes*, including as the same may be amended from time to time.

**Section 3. Board of Directors Compensation.** No member of the Board of Directors or officer of the Association shall receive any compensation for services rendered in such capacity.

## **ARTICLE V** **MAINTENANCE**

**Section 1. Owner's Responsibility.** All maintenance of any particular lot unless specifically identified as being the responsibility of the Association shall be the responsibility of the Owner of such lot. No Owner shall (i) decorate or change the appearance of any portion of the exterior of a residence or the exterior appearance of a lot unless such decoration or change is first approved, in writing, by the ARB, or (ii) do any work which, in the reasonable opinion of the ARB would jeopardize the soundness and safety of the Property, reduce the value thereof, or impair any easement or hereditament thereto, without in every such case the unanimous, prior written consent of all the other Owners.

Further, each Owner shall maintain in good repair all above ground improvements and landscaping after lot development and construction within the lot and any easement areas located thereon. All landscaping shall be consistent with surrounding landscaping on the lots within the subdivision.

**Section 2. Association's Responsibility.** Except as may be otherwise provided herein, the Association shall maintain and keep in good repair the Common Areas, which responsibility shall be deemed to include, but not be limited to:

(a) The maintenance and repair of such utility lines, pipes, wires, glass, conduits, and systems which are a part of the Common Area

(b) Maintenance, repair or otherwise of all the Common Area. The maintenance of the Common Area shall be deemed to include, but not be limited to, maintenance, repair, and replacement, subject to the insurance and casualty loss provisions contained herein, at the Association's sole cost and expense of all trees, fences, shrubs, grass, streets, parking spaces, walks and other improvements situated upon the Common Area, if any,

(c) Insurance provided for herein.

(d) The Association shall maintain, repair and replace all site walls, fences, gates, installed or placed on the common area.

(e) The Association shall maintain, repair and replace all exterior lighting fixtures upon the common areas and all electrical installations and devices situated on the common areas for the common use, including wiring and components.

(f) The Association shall maintain, repair, and replace all roadways, curbing, and driveways situated upon the common areas (collectively referred to herein as "Paved Areas"); provided, however, any damage to the Paved Areas, included, without limitation, oil and other stains from motor vehicles causing such damage and/or the Owner to whom the motor vehicle owner was a guest, tenant or invitee, to repair, and in the event such repair is not promptly undertaken, the Association shall repair same at Owner's expense.

(g) The Association shall maintain, repair and replace all vehicular traffic signs and property identification signs installed or placed on any part of the property by the Developer or the Association.

(h) The Association shall maintain and repair all aspects of the entry gates, gatehouse, entry call-box systems, and security for the common areas.

(i) The Association shall maintain and repair all aspects of the Club House, including the swimming pool, bathrooms, and pool equipment.

(j) The Association shall maintain and repair all aspects associated with the landscaping of the common areas, and entries.

**Section 3. Association Determination of Owner's Responsibility.** In the event that the Board of Directors of the Association determines that : (1) any Owner has failed or refused to discharge properly said Owner's obligations with regard to the maintenance, repair, or replacement of items for which said Owner is responsible hereunder; or (ii) that the need for maintenance, repair, or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of any Owner, said Owner's family, guests, lessees or invitees, and is not covered or paid for by insurance in whole or in part. In that event the Association, except in the event of an emergency situation, shall give the Owner written notice of the Association's

intent to provide such necessary maintenance, repair or replacement at the Owner's sole cost and expense, and setting forth with reasonable particularity the maintenance, repairs or replacement deemed necessary. The Owner shall have fifteen (15) days within which to complete said maintenance, repair or replacement. If any Owner does not comply with the foregoing provisions of this Section 3, the Association may provide any such maintenance, repair, or replacement at Owner's sole cost and expense, and said cost shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the lot owned by such Owner. Such lien shall be enforceable by the Association, as set forth herein.

## **ARTICLE VI**

### **INSURANCE AND CASUALTY LOSSES**

**Section 1. Insurance.** The Association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain and maintain insurance for all insurable improvements on the Common Area against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, in an amount sufficient to cover the full replacement cost less any deductible of any repair or reconstruction in the event of damage or destruction from any such hazard, and shall also obtain a public liability policy covering all the Common Area, including the Roadways, and all damage or injury caused by the negligence of the Association or any of its agents, which public liability policy shall have personal injury and property damage combination single limit coverage in an amount determined by the Board of Directors to be reasonably sufficient. Premiums for all such insurance shall be common expenses of the Association. The policy may contain a reasonable deductible, and the amount thereof shall be added to the face value of the policy in determining whether the insurance equals at least the full replacement cost. The Board of Directors of the Association shall have the authority to increase the minimum insurance requirements in its sole discretion.

**Section 2. Disbursement of Proceeds.** Proceeds of insurance policies shall be disbursed as follows:

(a) If the property damaged or destroyed for which the proceeds 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 repairs or reconstruction 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 mortgagee of a residence and may be enforced by such mortgagee.

(b) If it is determined as provided for in Section 3(b) of this Article that the property damaged or destroyed for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds in Section 2(a) above.



**Section 3. Damage and Destruction.**

(a) Immediately after the 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 of Directors 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 property.

(b) Any such property so damaged or destroyed shall be repaired or reconstructed unless at least seventy-five (75%) percent of the total vote of the Association (Class A and Class B, as applicable) 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, that such extension shall not exceed sixty (60) days. No mortgagee shall have any right to participate in the determination of whether the damage or destruction shall be repaired or reconstructed.

(c) In the event that it should be determined by the Association in the manner described above that the property so damaged or destroyed shall not be repaired or reconstructed, then and in that event the damaged or destroyed property shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in neat and attractive condition.

**Section 4. Repair and Reconstruction.** If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the members, levy a special assessment against all Owners and in sufficient amounts to provide funds to pay such excess cost of repair or reconstruction. If the funds available from insurance exceed the cost of repair, such excess shall be deposited in the Association's capital improvements account, as previously described.

**Section 5. Casualty Destruction to Improvements.** In the event a Residence or other improvements upon a lot is damaged or destroyed by casualty, hazard or other loss, then, within a reasonable period of time after such incident, the Owner thereof shall commence to rebuild or repair the damaged Residence or Lot or improvements thereon in compliance with applicable determinations of the Board, and shall diligently continue such rebuilding or repairing activities to completion.

**Section 6. Owner's Insurance.** As the Developer nor the Association does not provide any form of insurance for the Lots or Residence, (including, without limitation, insurance for general liability, fire, hazard, casualty, windstorm, or flood), it shall be the obligation of every owner to purchase and maintain, appropriate insurance, as set forth herein, with respect to all improvements located on Owner's lot and within Owner's residence. The required amount shall be at least 110% of the estimated cost of replacement of the Residence. Owner shall file with the Association insurance

certificates showing the required insurance coverage, and each Owner shall file such certificates with the Association on an annual basis or, at the discretion of the Board.

## **ARTICLE VII** **RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

**Section 1. The Common Area.** The Association, generally, shall have the powers set forth in this Declaration and as granted by law and, specifically, shall be responsible for the management and maintenance of the Common Area and all improvements thereon, and shall keep the same in good clean, attractive and sanitary condition, order and repair, pursuant to the terms and conditions hereof. Further Association powers are described above in this Declaration and are detailed below in this Declaration.

**Section 2. Services.** The Association may obtain and pay for the services of any person or entity to manage the Association's affairs or any part thereof, to the extent the Association deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Property, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. If the Association enters into a management agreement, it shall be by written contract cancelable upon sixty (60) days written notice. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property or the enforcement of this Declaration. The Association may but shall not be required to arrange as an Association expense with others to furnish water, trash collection, sewer service and other common services to each lot. The Association shall be permitted but shall not be required to contract with the Declarant for the provision of all such services which the Association is required or permitted by this Declaration to perform. It is anticipated that such contracts will be entered into when economically feasible and acceptable to both parties.

**Section 3. Personal Property and Real Property for Common Use.** The Association through action of its Board of Directors may acquire and hold tangible and intangible personal property and real property and may dispose of the same by sale or otherwise.

**Section 4. Rules and Regulations.** The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of any lot and of the Common Area, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Enforcement may include the imposition of reasonable fines which if not paid when due shall constitute a lien as provided in this Declaration.

**Section 5. Implied Rights.** The Association may exercise any other right or privilege given to the Association expressly by this Declaration or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association herein or reasonably necessary to effectuate any such right or privilege. In addition, the Association has the right, power, and authority to

pledge, as security for loans, its rights to collect assessments and assessment income and insurance proceeds.

**Section 6. Further Duties of the Association.** The Association shall be responsible for the maintenance, operation, and repair of the Surface Water or Stormwater Management System. Maintenance of the Surface Water or Stormwater Management System shall mean the exercise of practices that allow the system to provide drainage, water storage, conveyance, or other surface water or stormwater management capabilities as permitted by St. Johns River Water Management District ("SJRWMD"). Any repair or reconstruction of the Surface Water or Stormwater Management System shall be as permitted or, if modified, as approved by the SJRWMD.

The Association shall be responsible for the maintenance, operation, and repair of the Conservation Areas as designated on the final plat. Maintenance and Management of these Conservation Areas shall be in accordance and as permitted by St. Johns River Water Management District ("SJRWMD") and the Indian River County Environmental Planning Department. Any repair or reconstruction of the Conservation Areas shall be as permitted or, if modified, as approved by the SJRWMD.

## **ARTICLE VIII** **ASSESSMENTS**

**Section 1. Purpose of Assessment.** The assessments for common expenses provided for herein shall be used for the general purposes of promoting the health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of residences and maintaining the Property, all as may be more specifically authorized from time to time by the Board of Directors.

**Section 2. Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association: (a) annual assessments or charges, (b) special assessments, such assessments to be established and collected as hereinafter provided, and (c) specific assessments against any particular lot which are established pursuant to the terms of this Declaration, including but not limited to reasonable fines as may be imposed in accordance with other provisions herein. All such assessments, together with interest at the highest rate allowable under the laws of the State of Florida from time to time, costs and reasonable attorneys' fees, shall be a charge on the lot and shall be a continuing lien upon the lot against which such assessments is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person or party who was the Owner of such lot at the time the assessment fell due. Each Owner shall be liable for said Owner's portion of each assessment coming due while said Owner is the Owner of a lot, and said Owner's grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors of the Association which may include, without limitation, acceleration of the annual assessments for delinquents; unless otherwise provided by

such Board, the assessment shall be paid in either monthly or quarterly installments as the Board of Directors shall so determine.

**Section 3. Computation.** It shall be the duty of the Board of the Association prior to the Association's Annual Meeting, to prepare and adopt a budget covering the estimated costs of operating the Association during the coming year which may include a capital contribution or reserve in accordance with a capital budget separately prepared. The Board shall cause the budget, and the assessments to be levied against each lot for the following year to be forwarded by regular mail to each Member, based upon that Member's address in the Association's records, prior to the meeting. The budget and the assessment shall become effective at the annual meeting. In the event the Board of Directors of the Association fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the then current year shall continue for the succeeding year. Both annual and special assessments must be fixed at a uniform rate for all lots and must be collected on a statement or coupon basis.

**Section 4. Special Assessment.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment, applicable to that year only, provided that any such assessment shall have the assent of a majority of the voting members; provided, however, that the Board of Directors may make such special assessments payable in installments over a period which may, in the Board's discretion, extend in excess of the year end in which adopted. The Board of Directors may levy special assessments without Member approval in the event of emergencies.

**Section 5. Lien for Assessments.** All sums assessed against any lot pursuant to this Declaration, together with interest as provided herein, shall be secured by a continuing lien on such lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such lot except only for:

- (a) Liens of ad valorem taxes; and
- (b) A lien for all sums unpaid on mortgages duly recorded in the Public Records of Indian River County, Florida, and all amounts advanced pursuant to such mortgages and secured thereby in accordance with the terms of such instruments;
- (c) Any prior lien in favor of the Association.

All other persons or parties acquiring liens or encumbrances on any lot after this Declaration shall have been recorded in said records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments as provided herein, whether or not prior consent be specifically set forth in the instruments creating such liens or encumbrances.

**Section 6. Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board of Directors may determine from time to time. Interest at

eighteen (18%) percent per annum shall accrue from the due date on any assessment due and not paid within ten (10) days of the due date. The Association shall cause a notice of delinquency and demand for payment to be forwarded by certified mail, return receipt requested to any member who has not paid within ten (10) days following the due date. If the assessment has not been paid within ten (10) days following the due date, the Association may cause a claim of lien to be recorded in the public records and in addition the claim of lien shall include late charges, interest on the principal amount due plus the late charges at the maximum allowable rate from the date first due and payable, all costs of collection, reasonable attorneys' fees incurred, subsequently accruing assessments, and any other amounts provided or permitted by law. Once recorded, the claim of lien shall continue to encumber the lot until satisfied and released of record. In the event that the assessments remain unpaid after the filing and recording of the claim of lien, the Association may as the Board of Directors shall determine institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed to a lot, vests in the Association or its agents the right and power to bring all actions against said Owner personally for the collection of such charges as a debt and/or to foreclose the aforesaid lien in the same manner as the foreclosure of other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The power to bid on the residence at any foreclosure sale or to acquire, hold, lease, mortgage, and convey the same, shall be held by the Association, acting on behalf of the Owners. No Owner may waive or otherwise escape liability for the assessments provided for herein, including by way of illustration but not limitation, abandonment of said Owner's lot. Additionally, the lien of the assessment provided for herein shall be subordinate to the lien of any mortgage or mortgages as provided for in Section 5(b) of this Article. Sale or transfer of any lot shall not affect the assessment lien. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

**Section 7. Exempt Property.** The Common Area shall be exempt from all the assessments created herein.

**Section 8. Date of Commencement of Annual Assessments.**

(a) The annual assessments provided for herein shall commence as to all lots on the first (1st) day of the month following the first conveyance by the Declarant of a lot to an Owner and shall be due and payable in a quarterly (every three (3) months) fashion and on a schedule as the Board of Directors of the Association may provide. The first annual assessment shall be adjusted according to the number of months then remaining in that fiscal year.

(b) For so long as Declarant meets or causes to be performed the level of services called for in the budget, Declarant is not required to pay any assessments on Declarant's unsold lots. Each Owner proportionately shall bear the cost and expense of any Association budget shortfall. The Declarant may but shall have no obligation to bear the cost and expense of any Association budget shortfall.

(c) Notwithstanding the foregoing, to the extent that there may exist an inconsistency between Section 8(a) and 8(b) above and Section 720.308, *Florida Statutes*, this Declaration shall be deemed to be modified and amended in order to comply with the provisions of Section 720.308, *Florida Statutes*, including as the same may be amended from time to time.

**Section 9. Additional Purposes of Assessments.** Assessments shall also be used for the operation, maintenance, and repair of the Surface Water Management System or Storm Water Management System(s) including but not limited to work within retention areas, drainage structures, and drainage easements.

## **ARTICLE IX ARCHITECTURAL CONTROL**

**Section 1. Necessity of Architectural Review and Approval.** No structure of any kind, including, without limitation, any building, fence, wall, tennis court, screen enclosure, dock, davits, water or building, landscaping, landscape device or object, or other improvement shall be commenced, erected, placed or maintained upon any lot, nor shall any addition, change or alteration therein or thereof be made, unless and until the plans, specifications and location of the same shall have been submitted to, and approved in writing by, the Association. All plans and specifications and designs shall be evaluated as to harmony of external design and location in relation to surrounding structures and topography. Furthermore, refusal of approval of design, plans, and specifications by the Association may be based upon any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of the Association shall seem sufficient.

**Section 2. Architectural Review Board.** The architectural review and control functions of the Association shall be administered and performed by the ARB, which shall consist of three designees who shall be members of the Association. A majority of the ARB shall constitute a quorum to transact business at any meeting of the ARB, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARB. Any vacancy occurring on the ARB because of death, resignation, or other termination of service of any designee thereof shall be filled by the Board of Directors of the Association.

**Section 3. Powers and Duties of the ARB.** The Architectural Review Board shall have the following powers and duties:

(a) **Architectural Planning Criteria.** To establish, modify and amend, from time to time, an Architectural Planning Criteria for Huntington Place Property Owners' Association, Inc. Any modification or amendment to the Architectural Planning Criteria shall be consistent with the provisions of this Declaration, and shall not be effective until adopted by a majority of the members of the Board of Directors of the Association at a meeting duly called and noticed for such purpose and at which a quorum is present and voting. Notice of any duly adopted modification or amendment to the Architectural Planning Criteria, including a verbatim copy of such change or modification, shall be delivered to each member of the Association; provided that, the delivery to each

member of the Association of notice and a copy of any modification or amendment to the Architectural Planning Criteria shall not constitute a condition precedent to the effectiveness or validity of such change or modification.

**(b) Adoption of Initial Architectural Planning Criteria.** It is the intention of the Declarant to develop a subdivision containing harmony and uniformity of construction and design in order to maintain the property values of the residences and lots within Huntington Place Property Owners' Association, Inc. The initial Architectural Planning Criteria shall be as described on ADDENDUM "A" attached hereto and incorporated herein by reference.

**Section 4. Procedure Before the ARB.** Prior to the commencement of any work on any lot contemplated for improvement, an Owner must submit to the ARB two (2) complete sets of plans and specifications for any improvement or structure of any kind, together with such fully executed application form and fees as may then be required by the ARB and such additional information as required by this Declaration. No later than thirty (30) days after receipt of said plans and specifications, the ARB shall respond to the application in writing by approving said application or disapproving said application. In the event the ARB fails to respond within said thirty (30) day period, the plans and specifications shall be deemed approved. In the event of disapproval of plans and/or specifications as submitted, no work or construction shall be commenced in furtherance of the proposed improvement. In the event of approval of said plans and specifications, the applicant shall provide the ARB with written notice of the completion of the staking of the lot. No further work shall be performed upon the lot until the ARB has inspected the premises and approved said staking. In the event the ARB fails to respond within seventy-two (72) hours (excluding Saturdays, Sundays, and legal holidays), after receipt of said notice, said work shall be deemed approved and this requirement shall be deemed waived by the ARB.

**Section 5. Time Limitation on Completion of Construction.** The ARB shall have the right to set a completion date for all construction or landscaping so as to preserve the aesthetics of the surrounding areas.

## **ARTICLE X**

### **USE RESTRICTIONS AND RULE MAKING**

**Section 1. Authority and Enforcement.** The Association shall be used only for those uses and purposes set out in the Declaration. As previously provided, the Board of Directors shall have the authority to make and enforce reasonable rules and regulations governing the conduct, use and enjoyment of the lots and the Common Area, provided that copies of all such rules and regulations be furnished to all Owners. If any Owner violates this Declaration, the By-Laws or any rules and regulations duly adopted hereunder, the Board of Directors of the Association shall have the right and power to impose reasonable fines which shall constitute a lien upon the lot owned by such Owner. Such Board of Directors shall be authorized and empowered to begin any action in any court on behalf of the Association and all Owners to abate any nuisance or otherwise enforce this Declaration.

**Section 2. Procedure.** The Board of Directors of the Association shall not impose a fine or seek to enforce this Declaration for violations of rules unless and until the following procedure is followed:

(a) **Demand.** Written demand to cease and desist from an alleged violation shall be served upon the alleged violator by either personal delivery or first class mail specifying:

- (i) The alleged violation;
- (ii) The action required to abate the violation; and

(iii) A time period, not less than fourteen (14) days, during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of sanction after notice and hearing if the violation is not continuing.

(b) **Notice.** Within thirty (30) days of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same rule is subsequently violated, the Board of Directors shall serve the violator by either personal delivery or fist class mail with written notice of a hearing to be held by a committee of Owners selected by the Board of Directors. The notice shall contain:

- (i) The nature of the alleged violation;
- (ii) The time and place of the hearing, which time shall not be less than ten (10) days from the date of the notice; and
- (iii) An invitation to attend the hearing and produce any statement, evidence, and/or witnesses on said alleged violator's behalf.

(c) **Hearing.** The hearing shall be held before the committee pursuant to the notice affording the alleged violator a reasonable opportunity to be heard, prior to the effectiveness of any sanction placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer or director who delivered such notice. The notice requirement shall be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

The Association is hereby granted and shall have the full right, power, and authority to institute any and all necessary legal proceedings at law and in equity to enforce any and all provisions of this Declaration or of the Articles of Incorporation, By-Laws, or rules and regulations of the Association.

**Section 3. No Implied Waiver.** The failure of the Board to object to an Owner's or other part's failure to comply with the covenants or restrictions contained in this Document now or hereafter promulgated shall in no event be deemed a waiver by the



board or of any other party having an interest therein of its right to object to same and to seek compliance therewith in accordance with the provisions of this Declaration.

## **ARTICLE XI MODIFICATION AND AMENDMENT**

This Declaration may be amended at any time and from time to time upon the execution and recording of an instrument executed by the President and Secretary of the Association acknowledging and affirming that the Owner or Owners holding not less than a majority of the voting interests of the membership in the Association have approved the said amendment. Prior to turnover of the Association, however, the Declarant shall have the power unilaterally to modify and amend this Declaration; such an amendment may be executed by the Declarant alone and without joinder by the Association.

Any proposed amendment to this Declaration or other related document that alters any provision relating to or that would affect the Surface Water Management System or Storm Water Management System (including environmental conservation areas and the water management portions of the Common Areas), beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior written approval of the St. Johns River Water Management District ("SJRWMD") and must be submitted to the SJRWMD for a determination of whether the amendment necessitates a modification of the Permit. If a modification is necessary, SJRWMD will so advise the permittee.

## **ARTICLE XII GENERAL PROVISIONS**

**Section 1. Enforcement.** Each Owner shall comply strictly with the By-Laws and with the rules and regulations adopted pursuant thereto, as the same may be lawfully amended from time to time, and with the covenants, conditions, limitations, and restrictions set forth in this Declaration and in the deed to said Owner's lot, if any. The Board of Directors may impose fines or other sanctions, collection of which shall be as provided for herein. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief or both, maintainable by the Association, or, in a proper case, by an aggrieved Owner. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter.

**Section 2. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect or dilute the effectiveness any other provisions which shall remain in full force and effect.

**Section 3. Duration and Term.** The terms, conditions, covenants, provisions, limitations, and restrictions of this Declaration shall run with the title to the Property and be binding on and inure to the benefit of and be enforceable in accordance with its terms by the Declarant, the Association, each Owner, and their respective legal

representatives, heirs, successors, and assigns for a period of twenty-five (25) years from the date this Declaration is recorded, after which time said terms, conditions, covenants, provisions, limitations, and restrictions shall automatically be renewed and extended for successive periods of ten (10) years each, unless instruments signed by the then Owners of two-thirds (2/3rds) of the lots in Huntington Place Property Owners' Association, Inc. agree to terminate or to amend or alter terms, conditions, covenants, provisions, limitations, and restrictions herein contained in whole or in part; and provided, however, so long as the Declarant owns any lot there shall be no amendments without the Declarant's joinder and consent.

**Section 4. Notice of Sale.** In the event an Owner sells any lot (including without limitation any improvement constructed thereon) the Owner is hereby required to give to the Association in writing the name of the purchaser, prior to or upon closing.

**Section 5. Additional Remedies for Violation.** Notwithstanding any provision set forth in this Declaration, the Declarant shall have the right in addition to any other remedies to proceed at law or in equity to compel compliance with the terms of any of the terms, conditions, covenants, restrictions, provisions or otherwise of this Declaration and to prevent the violation or breach of any of them, and the expense of such litigation shall be borne by the then Owner of the portion of the Property alleged to be in violation, provided such proceeding results in the finding that such Owner was in violation of said covenants, provisions or restrictions. Such expenses of litigation shall include reasonable attorneys' fees and costs, not limited to taxable costs, incurred by the Declarant or the Association in seeking such enforcement at the trial and appellate level.

**Section 6. Indemnification.** The Association shall indemnify every officer and director and every member of any committee of the Board of Directors, including but not limited to the ARB, against any and all expenses, including reasonable attorneys' fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the then Board of Directors) to which he may be made a party by reason of being or having been an officer or director at the time such expenses are incurred except in such cases where the officer and/or director is guilty of willful misconduct or gross negligence in the performance of his or her duties. 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 to others 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 or director, or former officer or director, may be entitled.

The Association shall, as common expense, maintain adequate general liability and officers and directors liability insurance to fund this obligation.

**Section 7. Transition of Association Control.** Control of the Association shall be turned over and transferred in accordance with Section 720.307, *Florida Statutes*, and said statute shall control over any provision herein to the contrary.

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

**(i)** Three (3) months after seventy-five (75%) percent of the lots in the Subdivision that will ultimately be operated by the Association have been conveyed to members; or

**(ii)** At such time as the Developer elects to effect turnover and so notifies the Association in writing or such other date or event has occurred, in order to comply with the requirements of any governmentally chartered entity with regard to the mortgage financing of lots.

**(b)** For purposes of this section, the terms *members other than the Developer* shall not include builders, contractors, or others who purchase a Lot for the purpose of constructing improvements thereon for resale or parties who purchase a Lot from Developer and transfer the said Lot within a period of time of less than one (1) year from the date of acquisition. The Developer is entitled to elect at least one (1) member of the Board of Directors of the Association for so long as the Developer holds for sale in the ordinary course of business at least five (5%) percent of the lots in the community. After the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer-owned voting interests in the same manner as any other member, except for purposes of reacquiring control of the Association or selecting the majority of the members of the Board of Directors.

**(c)** At the time the members are entitled to elect at least a majority of the Board of Directors of the Association and turnover has occurred and has been accepted by the members, the Developer shall at the Developer's expense within no more than ninety (90) days of turnover and acceptance thereof deliver the following documents to the Board of Directors:

- (i) All deeds to common area owned by the Association.
- (ii) The original of the Association's Declaration.
- (iii) A certified copy of the Articles of Incorporation of the Association.
- (iv) A copy of the By-Laws of the Association.
- (v) The minute books, including all minutes.
- (vi) The books and records of the Association.
- (vii) Policies, rules, and regulations, if any, which have been adopted.
- (viii) Resignations of directors who are required to resign because the Developer is required to relinquish control of the Association.
- (ix) The financial records of the Association from the date of incorporation through the date of turnover.
- (x) All Association funds and control thereof.
- (xi) All tangible property of the Association.
- (xii) A copy of all contracts which may be in force to which the Association is a party.
- (xiii) A list of the names, addresses, and telephone numbers of all contractors, subcontractors, or others in the current employ of the Association.

- (xiv) Any and all insurance policies in effect.
- (xv) Any permits issued to the Association by governmental entities.
- (xvi) Any and all warranties in effect.
- (xvii) A roster of current members and their addresses and telephone numbers and lot numbers.
- (xviii) Employment and service contracts in effect.
- (xix) All other contracts in effect to which the Association is a party.

**Section 8. Easements.** All drainage, access, conservation, wetland buffer, and maintenance Easements, as described and depicted on the Plat, are reserved for the uses and purposes set forth herein and as defined by SJRWMD and Indian River County. No Easement may be removed or altered from its intended use or purpose by any current Owner or subsequent Owner.

### **ARTICLE XIII** **EFFECTIVE DATE**

This Declaration shall become effective upon its recording in the Public Records of Indian River County, Florida.

### **ARTICLE XIV** **MISCELLANEOUS**

**Section 1. Governing Law and Venue.** This Declaration and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Florida. Venue hereunder shall lie in Indian River County, Florida.

**Section 2. Number and Gender.** Whenever the singular number is used in this Declaration and when required by the context, the same shall include the plural; and the masculine, feminine, and neuter genders shall each include the others.

**Section 3. Non-Waiver.** Failure to insist upon strict compliance with any of the terms, covenants, or conditions herein shall not be deemed a waiver of such terms, covenants, or conditions, nor shall any waiver or relinquishment of any right or power hereunder at any one time or times be deemed a waiver or relinquishment of such right or power at any other time or times.

**Section 4. Reading in Concert.** All words, terms, and conditions contained herein are to be read in concert, each with the other; and a provision contained under one paragraph may be considered to be equally applicable under another in the interpretation of this Declaration.

**Section 5. Terminology.** The words *herein* and *hereof* and words of similar import, without reference to any particular section or subdivision of this Declaration, refer to this Declaration as a whole rather than to any particular section or subdivision hereof. Defined terms shall have the meaning attributed to them as set forth in Article I hereof. In the event in this Declaration a defined term does not begin with an upper

case letter, it shall, nonetheless, be deemed a defined term and shall be interpreted as said term is specified and defined herein in Article I of this Declaration.

**Section 6. Surface Water Management System. Additional Definitions.**

When used in this Declaration in this Section the following terms will have or shall have had the following meanings:

**(a) "SJRWMD" or "District"** means and has meant throughout this Declaration, where previously used, the St. Johns River Water Management District, or its successor entity.

**(b) "Surface Water Management System"** means the Surface Water Management System or Storm Water Management System for the Property constructed pursuant to the SJRWMD permit which Surface Water Management System constitutes a part of the Common Areas. The Association owns or shall own the Common Area and owns the Surface Water Management System and hereby accepts responsibility for the operation and maintenance of the Surface Water Management System described in the SJRWMD application and the SJRWMD Permit No. 40-061-96176-1.

**(c) Surface Water Management System Easements.** The Declarant hereby reserves unto Declarant and grants to the Association, subject to the terms and conditions of this Declaration, a non-exclusive easement burdening the areas of the Property designated on the Plat (and associated control structures), said areas being for the purpose of the Association effectively maintaining and operating the Surface Water Management System in accordance with the SJRWMD Permit. Declarant reserves, both for Declarant, and for the Owners collectively, and for the Association, the right to grant additional non-exclusive easements over, under, across and through the Common Area, provided that such additional easement grants do not interfere with the effective maintenance and operation of the Surface Water Management System.

**(d) Operation and Maintenance of Surface Water Management System.** It is the responsibility of the Association to operate and maintain the Surface Water Management System. The Association shall effectively operate and maintain the Surface Water Management System in accordance with the SJRWMD Permit. This shall include the filling of monitoring reports on a quarterly basis during the first year, and semi-annually thereafter, for a period of three (3) years and until success criteria are met for two (2) consecutive monitoring intervals.

**(e) Amendment of Declaration.** Notwithstanding Article XI of this Declaration, or any other amendment provision, any amendment (including a termination) of this Declaration that would directly and adversely affect the operation and maintenance of the Surface Water Management System in a material respect must have the prior approval of the SJRWMD. Any amendment proposed to this Declaration that would affect the Surface Water Management System, conservation areas, or water management portions of common areas shall be submitted to SJRWMD for review prior to finalization of the amendment. SJRWMD shall determine if the proposed amendment will require a modification of the environmental resource or Surface Water Management Permit. If a permit modification is necessary, the modification must be approved by SJRWMD prior to the amendment of this Declaration or its effectiveness.

**(f) Disposition.** The Association shall not dissolve or dispose of any Common Area or common open space or improvements therein except to an organization concerned with and designed for the continued maintenance in accordance with the requirements of the original development approval.

**(g) Enforcement.** SJRWMD shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration that relate to the maintenance, operation, and repair of the Surface Water Management System or Storm Water Management System.

**(h) Alteration of Drainage Flow.** No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of SJRWMD. Each lot owner, including builders, shall be responsible for the maintenance, operation, and repair of the swales on the lot. Maintenance, operation, and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance, or other stormwater management capabilities as permitted by SJRWMD. Filling, excavating, constructing fences, or otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the drainage swale shall be authorized and any damage to any drainage swale, whether caused by natural or human-induced phenomena, shall be repaired and the drainage swale returned to its former condition as soon as possible by the Owner(s) of the Lot(s) upon which the drainage swale is located.

**(i) Submission and Confirmation.** Prior to the commencement of construction on any Lot within Huntington Place, the Lot Owner shall submit information, including plats and appropriate calculations, demonstrating conformance with the Environmental Resource Permit No. 40-061-96176-1, to SJRWMD. Construction shall not commence until the Lot Owner receives written confirmation from SJRWMD that the plans are in conformity with the conditions of the said District Permit.

**Section 7. Lift Station.** The Property and all of the Lots within the Property shall be serviced by a waste water sewer Lift Station. The Lift Station includes a structure housing (wet well), pumps, piping, valves and auxiliary equipment for the collection of waste water sewage from the community's sanitary sewer collection system.

The Lift Station will not be dedicated to Indian River County, and the Association shall be responsible for its preservation and maintenance. On an annual basis, the Association shall contract with a private maintenance company to perform periodic inspections of the Lift Station and to provide a response in emergency situations, should the Lift Station fail to function or should the Lift Station be damaged. The Association shall also procure insurance coverage for the Lift Station to pay for loss or damage to the Lift Station equal to its full replacement cost and satisfactory to the Indian River County Utilities Department. Also, on an annual basis, the Association shall submit evidence of such insurance to the Indian River County Utilities Department.

**Section 8. Animal Waste.** Animal Waste shall be disposed of in a manner consistent with the requirements of the animal waste management plan approved and permitted by SJRWMD, and such plan shall seek to minimize introduction of phosphorus into the Surface Water Management System. All Owners shall have the duty and obligation to comply with the requirements of such plan; the Association shall have the full power and authority to enforce the plan and all Owners' compliance with same, including but not limited to through the imposition of either or both legal and equitable proceedings.

**Section 9. Association Powers Clarified.** Notwithstanding any other term, condition, or provision herein or in the Articles of Incorporation or By-Laws of the Association, the Association shall have and is hereby vested with the following powers, rights, duties, and responsibilities:

- (a) Establish rules and regulations.
- (b) Assess Members and enforce collection of said assessments.
- (c) File suit and be sued.
- (d) Contract for services (if the Association contemplates employing a maintenance or management company) to provide the services for operation and maintenance.
- (e) The Association shall exist in perpetuity; however, if the Association is dissolved, the property consisting of the Surface Water Management System shall be conveyed to an appropriate agency of local government, as determined by the SJRWMD. If it is not accepted, then the Surface Water Management System must be dedicated to a similar non-profit corporation, as determined and specified by the SJRWMD.
- (f) Operate and maintain the Surface Water Management System.
- (g) Any proposed amendment to the governing documents, which would affect the Surface Water Management System (including environmental conservation areas and the water management portions of the common areas) must be submitted to the SJRWMD for a determination of whether the amendment necessitates a modification of the Surface Water Management Permit. If a modification is necessary, the SJRWMD will so advise the permittee.
- (h) If wetland mitigation monitoring will be required and the operational entity will be responsible to carry out this obligation, the Association shall complete the task successfully, including meeting all conditions associated with mitigation maintenance and monitoring.

- (i) The Surface Water Management Permit and its conditions shall be attached hereto as an exhibit. The Registered Agent for the Association shall maintain copies of all further permitting actions for the benefit of the Association.

**Section 10. Monitoring and Maintenance.** Monitoring and maintenance of the mitigation area, as described in SJRWMD Permit Number 40-061-96176-1, shall be the responsibility of the Association. The Association must successfully complete the mitigation and satisfy Permit conditions. The success criteria are described in the Permit, which is attached hereto as EXHIBIT "B."

**Section 11. Environmental Resource or Surface Water Management Permit Attached.** The Environmental Resource or Surface Water Management Permit is made a part of this Declaration and attached hereto as EXHIBIT "B." Copies of the Permit and any future permit actions of SJRWMD are and shall be maintained by the Registered Agent of the Association for the benefit of the Association.

**Section 12. Conservation Easements.** The following activities are prohibited in or on the Conservation Easement described on EXHIBIT "C:"

- (a) Construction or placing of buildings, roads, signs, billboards, or other advertising, utilities, or other structures on or above the ground;
- (b) Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;
- (c) Removal or destruction of trees, shrubs, or other vegetation, except for the removal of exotic vegetation in accordance with a SJRWMD approved maintenance plan;
- (d) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such a manner as to affect the surface;
- (e) Surface use except for purposes that permit the land or water area to remain in its natural condition;
- (f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation, including but not limited to, ditching, diking, and fencing;
- (g) Acts or uses detrimental to such aforementioned retention of land or water areas;



- (h) Acts or uses within SJRWMD's regulatory jurisdiction which are detrimental to the preservation of any features or aspects of the Property having historical or archaeological significance.

**Section 13. Creation of a Lien and Personal Obligations of Assessments.**

Notwithstanding any other provision in this Section to the contrary, Declarant, for each Lot owned within the Property, hereby covenants, and for each Owner by acceptance of a deed therefor, irrespective of whether it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association: (1) annual assessments as defined herein; (2) special assessments, including attorneys' fees for enforcement of violations by an Owner of any of the provisions of the Declaration, Restrictions, the Articles of Incorporation, the Bylaws or the Rules and Regulations of the Association, against any particular Lot which are established, pursuant to the terms of this Declaration or pursuant to the terms of the Articles of Incorporation and Bylaws of the Association or of any Community Association; and (3) all excise taxes, if any, which may be imposed on all or any portion of the foregoing by law. All such assessments, together with interest and all costs and expenses of collection and enforcement of any violation, including attorneys' fees for enforcement of a violation and appellate attorneys' fees for enforcement of a violation, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made.

Attorneys' fees for enforcement of violations are assessments and the terms *attorneys' fees for enforcement* shall be deemed incorporated in and made a part of the definition of the term *assessments* for purposes hereof. Assessments are continuing liens on the property. Therefore, attorneys' fees for enforcement of violations are continuing liens and the homestead property can be foreclosed upon.

**Section 14. Lot Clearing and Filling.** Pursuant to the agreement between the Developer and Indian River County, as set forth in letter dated August 22, 2006, each party, who is the initial purchaser from the Developer of a Lot in the Subdivision, as an Owner, shall have the duty and responsibility at the Owner's expense to fill the said Lot to the extent of no less than seventy-five (75%) percent of final grade within two (2) consecutive calendar years of the date of recording the Plat or of closing and title transfer from the Developer to said Owner (hereinafter referred to as the "Fill Period"), whichever is first to occur. No extensions of the Fill Period shall be granted and may not be granted by either the Developer or the Association.

Subsequent title transfers of the Lot by the Owner shall not have the effect of extending the Fill Period.

In the event the Owner fails to fill the said Lot as required above and by no later than the expiration of the Fill Period, then the Developer, if prior to the turnover of the

Association, or the Association, if after turnover of the Association, shall complete the filling of the Lot; and, the total cost of the same plus ten (10%) percent of such total cost shall be and be deemed an obligation of the Owner and the equivalent of an unpaid assessment, payable within thirty (30) days of written demand for payment from either the Developer or the Association, as the party which has paid the costs. Should the Owner not reimburse the Developer or the Association for the total cost plus ten (10%) percent of such total cost within thirty (30) days of written demand, the unpaid sum shall accrue interest at the rate of nine (9%) percent per annum; and either the Developer or the Association, as the party which has paid the costs, shall be entitled to and may file a Claim of Lien to secure said costs and all accrued interest thereon, and said party may foreclose that Claim of Lien and in addition file an action for damages in the same manner as unpaid assessments may be collected and a Claim of Lien for unpaid assessments foreclosed.

**Section 15. Maintenance Bond.** Pursuant to the agreement between the Developer and Indian River County, as set forth in letter dated August 22, 2006, a copy of which is attached hereto and incorporated herein by reference as EXHIBIT "D," in order to satisfy the requirements of Indian River County, Florida, Developer shall by no later than April 1, 2007, as the principal, procure a maintenance bond in the amount of \$685,704.86 in a form satisfactory to Indian River County, Florida, which shall name Indian River County, Florida as the obligee. The bond shall either be a cash bond posted by the Developer with Indian River County, Florida, or Developer shall procure a bond from a surety satisfactory to Indian River County, Florida. The bond shall remain in place and effective for three (3) consecutive years form the date of posting or acquisition.

The condition of the bond shall be that the Developer shall maintain and preserve the infrastructure of the Subdivision for three (3) consecutive years after the final plat of the Subdivision is approved by all required governmental agencies. For so long as Indian River County, Florida has not had cause to draw upon fully the maintenance bond during the three (3) year period, the bond (or the balance remaining) shall be released to the Developer and discharged at the conclusion of the three (3) year period.

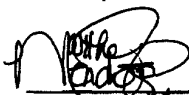
The Developer shall not transfer to the Association the obligation to maintain the infrastructure of the Subdivision until the earlier of either: (a) seventy-five (75%) percent of all of the Lots in the Subdivision have been filled, as provided above in Section 14; or (b) the three (3) year period during which the maintenance bond is in effect shall have expired.

**IN WITNESS WHEREOF**, Declarant has caused these presents to be executed on the date set forth above.

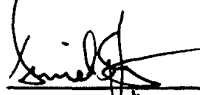
Signed, sealed, and delivered in the presence of:

"DEVELOPER" or "DECLARANT"

FOSTER I.R.C., LLC.,  
a California limited liability company

  
(Name: Mark Madore)

By:   
MARK FOSTER, Manager

  
(Name: DANIEL S. JONES)

**See attached Notarial Acknowledgement required under California law.**

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# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

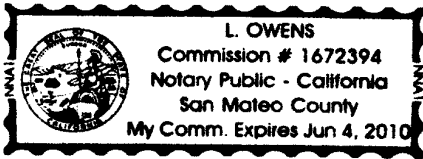
County of San Mateo

On 8 Jan 2007 before me, L. Owens, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Mark C. Foster  
Name(s) of Signer(s)

personally known to me

(or proved to me on the basis of satisfactory evidence)



to be the person<sup>(s)</sup> whose name<sup>(s)</sup> <sup>is</sup> subscribed to the within instrument and acknowledged to me that he/~~she~~<sup>she</sup>/they executed the same in his/~~her~~<sup>her</sup>/~~their~~<sup>their</sup> authorized capacity<sup>(ies)</sup>, and that by his/~~her~~<sup>her</sup>/~~their~~<sup>their</sup> signature<sup>(s)</sup> on the instrument the person<sup>(s)</sup>, or the entity upon behalf of which the person<sup>(s)</sup> acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

[Signature]  
Signature of Notary Public

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

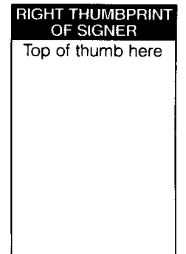
- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

**ADDENDUM "A"****INITIAL ARCHITECTURAL PLANNING CRITERIA**

In order to preserve the property values and first class appearance of the Lots and Residences in a manner consistent with those of a first class residential subdivision subject to high qualitative standards, the initial Architectural Planning Criteria shall be as follows:

**(i)** The composition, location and height of any wall to be constructed on any lot shall be subject to the approval of the ARB. The ARB shall require the composition of any wall to be consistent with the home constructed. All walls for screening of garbage areas and air conditioning and soft water conditioning equipment shall be indicated on plans submitted to the ARB. Fences or fencing shall be permitted only with the express written approval of the ARB. No fence shall obstruct any view around the lakes.

**(ii)** The ARB shall have final approval of all exterior color plans, and each Owner must submit to the ARB a color plan showing the color of all exterior surfaces. All colors shall be soft pastels and earth tones. The ARB shall determine whether the color plan is consistent with the surrounding areas and the color plan conforms with the color scheme of the overall aesthetics of Huntington Place Property Owners' Association, Inc.

**(iii)** All water softeners, air conditioners, pool equipment, sprinkler system equipment, bottle gas, garbage or trash containers, and electrical transformers must be located underground or placed within screened or walled-in areas so that they shall not be visible from other lots or streets. The method and manner of said screening must be submitted to and approved by the ARB prior to commencement of said screening and shall be of the same color and material as the main residence. No exterior portion of any lot shall be used as a drying or hanging area for any laundry of any kind. In addition to and not limiting the foregoing, air conditioner compressors and electrical transformers shall be similarly screened from view and buffered by a wall or shrubbery so as to reduce the noise level resulting from operation thereof.

**(iv)** All residences must be of a style consistent in design and appearance with all other homes in the Subdivision. This Style shall be consistent to the Colonial/Country Style of the Club House.

**(v)** No residence constructed on any lot shall contain bright or offensive colors, including but not limited to the colors of any tiles on any portion of the exterior of any residence, including on any driveway. All colors must be soft pastels and earth tones. No two colors can be the same on adjacent residences or within three lots.

**(vi)** All residences shall have a minimum air-conditioned floor space of two thousand three hundred (2,300) square feet.

**(vii)** All windows shall be of a casement or sash variety. There shall exist no awnings windows or jalousie windows.

**(viii)** There shall exist a minimum roof overhang on all residences of twelve (12) inches. All roofs shall be cement tile or clay tile, as approved by the Association. Roof tile color cannot be the same on adjacent residences or within three lots.

**(ix)** In the event a guest house is constructed as part of a residence and the same is approved by the ARB, under no circumstances shall such guest house be rentable as a separate home.

**(x)** All mailboxes shall be of a uniform structure and design to be specified by the Declarant. The mailbox itself, the enclosure, and the post shall all be uniform and shall be defined by the Declarant.

**(xi)** Satellite dishes and disks shall have a diameter of no more than eighteen (18) inches and shall be positioned such that the same are not visible from the Roadways or the adjacent lots. Installation shall be limited solely to the Owner's Lot and may not be on or protrude onto the common areas, common areas airspace, or onto any other lot. The dish shall be placed in a location which minimizes its visibility from the common areas, and adjacent lots.

**(xii)** All exterior fixtures on each residence constructed on any lot shall be approved by the ARB. Declarant shall require each residence to have exterior lighting activated by a photocell. The design specifications for such exterior front lighting shall be established by Declarant.

**(xiii)** All numbers on each residence to identify the street number of the residence shall be uniform in size, shape, and color, as specified by the Declarant.

**(xiv)** Landscaping is an essential part of Huntington Place. The general landscaping design is intended to be lush, natural, mostly native, and informal, using a plant palette of mature vegetation to present an established appearance at the time of installation. All plant material shall be in accordance to City, County and other governmental agency requirements. Landscaping expenditure shall be of at least 5% of the construction cost, independent of sod, well and irrigation system. Owners shall submit a preliminary landscaping plan to the ABR for approval. All residences shall be landscaped in a manner and form satisfactory to the ARB, such that a perimeter surrounding each residence of at least two (2) feet from any point on any structure is landscaped to an extent necessary to give to any lot after construction a finished look and completed appearance. All landscaping shall be installed in a manner in harmony with the surrounding landscaping then in place and with the landscaping in the subdivision generally.

**(xv)** The front of the residence must face the street front of the lot. On a corner lot within Huntington Place Property Owners' Association, Inc., the owner must select which of the side lots abutting the street is the front lot and shall construct the front of said Owner's residence facing the street on the pre-selected front lot; however,

the longest segment of two shall be deemed the front of the residence. Otherwise, ARB approval is required in order to deviate from the foregoing standard.

**(xvi)** All Owners who elect to install motorized, roll-up screens for garages and back porches shall be approved by the ARB in advance of installation.

**(xvii)** All residences shall be limited to two (2) stories.

**(xviii)** All garages shall be, at a minimum, two (2) car garages. Single car garages or one and one-half (1½) car garages, respectively, are expressly prohibited.

**(xix)** All driveways shall be constructed with pavers of earth tones colors as Pave Module E11, E16, E17, E345 or equivalent. No asphalt, or concrete, or gravel or dirt driveways shall be permitted.

**(xx)** All finish materials for each residence shall be limited to either stucco or brick, as approved by the ARB.

**(xxi)** Additional Architectural Planning Criteria, together with modifications of the aforementioned, may be approved by the ARB from time to time, provided such modifications and amendments be in written form, executed with the formalities of a deed, and recorded as amendments to this covenant in the Public Records of Indian River County, Florida. All such additional criteria shall be consistent with the terms and provisions of this Declaration unless otherwise approved by the Board of Directors of the Association.

**(xxii)** Those provisions set forth in Article III, Section 4 hereof are also made a part of the Architectural Planning Criteria.

**DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS  
FOR  
HUNTINGTON PLACE**

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**EXHIBIT "A"**

**(Legal Description of Property)**



**EXHIBIT "A"**

**(Legal Description)**

Tract 1 and the East 30.38 acres of Tract 2, Section 17, Township 32 South, Range 39 East; according to the last general plat of INDIAN RIVER FARMS COMPANY, filed in the Office of the Clerk of the Circuit Court of St. Lucie County, Florida, in Plat Book 2, Page 25; said land now lying and being in Indian River County, Florida.

**DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS  
FOR  
HUNTINGTON PLACE**

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**EXHIBIT "B"**  
**(SJRWMD Permit)**

**ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**  
Post Office Box 1429  
Palatka, Florida 32178-1429

**PERMIT NO. 40-061-96176-1**  
**PROJECT NAME: Huntington Place Subdivision**

**DATE ISSUED: October 11, 2005**

**A PERMIT AUTHORIZING:**

Construction of a Surface Water Management System with stormwater treatment by best management practices and wet detention for Huntington Place Subdivision, a 67.98-acre project to be constructed as per plans received by the District on August 10, 2005.

**LOCATION:**

Section(s): 14 Township(s): 32S Range(s): 39E

Indian River County

Foster Enterprises for California Partnership  
1140 7th Court, Suite F  
Vero Beach, FL 32960

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

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

This permit may be revoked, modified or transferred at any time pursuant to the appropriate provisions of Chapter 373, Florida Statutes:

**PERMIT IS CONDITIONED UPON:**

See conditions on attached "Exhibit A", dated October 11, 2005

**AUTHORIZED BY:** St. Johns River Water Management District  
Department of Resource Management



By: \_\_\_\_\_  
(Service Center Director - Palm Bay)  
John Juillianna

**"EXHIBIT A"**  
**CONDITIONS FOR ISSUANCE OF PERMIT NUMBER 40-061-96176-1**  
**FOSTER ENTERPRISES FOR CALIFORNIA PARTNERSHIP**  
**DATED OCTOBER 11, 2005**

1. All activities 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.
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 do not cause violations of state water quality standards.
4. Prior to and during construction, the permittee shall implement and maintain all erosion and sediment control measures (best management practices) required to retain sediment on-site and to prevent violations of state water quality standards. All practices must be in accordance with the guidelines and specifications in chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988), which are incorporated by reference, unless a project specific erosion and sediment control plan is approved as part of the permit, in which case the practices must be in accordance with the plan. If site specific conditions require additional measures during any phase of construction or operation to prevent erosion or control sediment, beyond those specified in the erosion and sediment control plan, the permittee shall implement additional best management practices as necessary, in accordance with the specifications in chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988). The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
5. Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 7 days after the construction activity in that portion of the site has temporarily or permanently ceased.
6. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District a Construction Commencement Notice Form No. 40C-4.900(3) indicating the actual start date and the expected completion date.
7. 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 No. 40C-4.900(4). These forms shall be submitted during June of each year.
8. For those systems which will be operated or maintained by an entity which will require an easement or deed restriction in order to provide that entity with the authority necessary to operate or maintain the system, such easement or deed restriction, together with any other final operation or maintenance documents as are required by subsections 7.1.1 through 7.1.4 of the Applicant's Handbook: Management and Storage of Surface Waters, must be submitted to the District for approval. Documents meeting the requirements set forth in these subsections of the Applicant's Handbook will be approved. Deed restrictions, easements and other operation and maintenance documents which require recordation either with the Secretary of State or the Clerk of the Circuit Court must be so recorded prior

to lot or unit sales within the project served by the system, or upon completion of construction of the system, whichever occurs first. For those systems which are proposed to be maintained by 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 governmental entity. Failure to submit the appropriate final documents referenced in this paragraph will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system.

9. 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 the 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 that phase or portion of the system to local government or other responsible entity.
10. Within 30 days after completion of construction of the permitted system, or independent portion of the system, 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 As Built Certification Form 40C-1.181(13) or 40C-1.181(14) supplied with this permit. When the completed system differs substantially from the permitted plans, any substantial deviations shall be noted and explained and two copies of as-built drawings submitted to the District. Submittal of the completed form shall serve to notify the District that the system is ready for inspection. The statement of completion and certification shall be based on on-site observation of construction (conducted by the registered professional engineer, or other appropriate individual as authorized by law, or under his or her direct supervision) or review of as-built drawings for the purpose of determining if the work was completed in compliance with approved plans and specifications. As-built drawings shall be the permitted drawings revised to reflect any changes made during construction. Both the original and any 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. The following information, at a minimum, shall be verified on the as-built drawings:
  1. Dimensions and elevations of all discharge structures including all weirs, slots, gates, pumps, pipes, and oil and grease skimmers;
  2. Locations, dimensions, and elevations of all filter, exfiltration, or underdrain systems including cleanouts, pipes, connections to control structures, and points of discharge to the receiving waters;
  3. Dimensions, elevations, contours, or cross-sections of all treatment storage areas sufficient to determine state-storage relationships of the storage area and the permanent pool depth and volume below the control elevation for normally wet systems, when appropriate;
  4. Dimensions, elevations, contours, final grades, or cross-sections of the system to determine flow directions and conveyance of runoff to the treatment system;
  5. Dimensions, elevations, contours, final grades, or cross-sections of all conveyance systems utilized to convey off-site runoff around the system;
  6. Existing water elevation(s) and the date determined; and Elevation and location of benchmark(s) for the survey.

11. The operation phase of this permit shall not become effective until the permittee has complied with the requirements of general condition 9 above, the District determines the system to be in compliance with the permitted plans, and the entity approved by the District in accordance with subsections 7.1.1 through 7.1.4 of the Applicant's Handbook: Management and Storage of Surface Waters, accepts responsibility for operation and maintenance of the system. The permit may not be transferred to such an 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 request transfer of the permit to the responsible approved operation and maintenance entity, if different from the permittee. Until the permit is transferred pursuant to section 7.1 of the Applicant's Handbook: Management and Storage of Surface Waters, the permittee shall be liable for compliance with the terms of the permit.
12. Should any other regulatory agency require changes to the permitted system, the permittee shall provide written notification to the District of the changes prior implementation so that a determination can be made whether a permit modification is required.
13. 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 40C-4 or chapter 40C-40, F.A.C.
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 activities authorized by the permit or any use of the permitted system.
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 specifically approved unless a specific condition of this permit or a formal determination under rule 40C-1.1006, F.A.C., 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 the permitted system or the real property at which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of rule 40C-1.612, F.A.C. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.
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 District.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.
20. This permit for construction will expire five years from the date of issuance.
21. At a minimum, all retention and detention storage areas must be excavated to rough grade prior to building construction or placement of impervious surface within the area to be served by those facilities. To prevent reduction in storage volume and percolation rates, all accumulated sediment must be removed from the storage area prior to final grading and

stabilization.

22. All wetland areas or water bodies that are outside the specific limits of construction authorized by this permit must be protected from erosion, siltation, scouring or excess turbidity, and dewatering.
23. Prior to construction, the permittee must clearly designate the limits of construction on-site. The permittee must advise the contractor that any work outside the limits of construction, including clearing, may be a violation of this permit.
24. The project must be constructed and operated as per the plans received by the District on August 10, 2005.
25. This permit requires the recording of a Declaration of Covenants and Restrictions that includes restrictions on certain real property.

#### Description of Restricted Area

The permittee shall provide to the District for review and written approval a copy of: (a) the preliminary plat showing the area to be encumbered by the restrictions, or (b) a surveyor's sketch and legal description of the area to be restricted, per the approved mitigation plan, at least 45 days prior to: (1) dredging, filling, or clearing any wetland or surface water for which mitigation is required, (2) clearing any upland within a Riparian Habitat Protection Zone for which mitigation is required, (3) the sale of any lot or parcel, (4) the recording of the subdivision plat, or (5) use of the infrastructure for its intended use, whichever occurs first.

If the impacts to an upland within a Riparian Habitat Protection Zone or to a wetland or surface water for which mitigation is required will occur in discrete phases, the areas to be preserved to offset such impacts may be restricted in phases such that impacts are offset during each phase. Such phasing of preservation shall only occur if it has been proposed in the mitigation plan and approved by the permit, or if it is approved in writing by the District. A surveyor's sketch and legal description of the area to be restricted during each phase must be submitted in accordance with the previous paragraph.

#### Recording of Declaration of Covenants and Restrictions

Prior to (1) dredging, filling, or clearing any wetland or surface water for which mitigation is required, (2) clearing any upland within a Riparian Habitat Protection Zone for which mitigation is required, (3) the sale of any lot or parcel, (4) the recording of the subdivision plat, or (5) use of the infrastructure for its intended use, whichever occurs first, the permittee shall record a Declaration of Covenants and Restrictions which shall include restrictions on the real property pursuant to section 704.06, Florida Statutes, and be consistent with section 12.3.8, Applicant's Handbook, Management and Storage of Surface Waters (February 1, 2005/April 10, 2002). The Declaration shall be in the form approved in writing by the District and, if no plat has been submitted, the Declaration shall include the approved legal description and surveyor's sketch. If the District does not provide written comments on approve the preliminary plat or surveyor's sketch and legal description within 45 days of receipt, then the permittee may record the Declaration with the legal description and surveyor's sketch or plat reference previously submitted. If the District provides written disapproval of the preliminary plat or surveyor's sketch and legal description, the permittee shall, within ten (10) days of receipt of the disapproval, correct all errors with the Declaration, including the preliminary plat or legal description and surveyor's sketch, and record the Declaration.

Pursuant to section 704.06, Florida Statutes, the Declaration shall prohibit all construction, including clearing, dredging, or filling, except that which is specifically authorized by this

permit, within the mitigation areas delineated on the final plans and/or mitigation proposal approved by the District. The Declaration must contain the provisions set forth in paragraphs 1(a)–(h) of section 704.06, Florida Statutes, as well as provisions indicating that the restrictions may be enforced by the District, and may not be amended without written District approval.

#### Additional Documents Required

The permittee shall ensure that the Declaration identifies, and is executed by, the correct grantor, who must hold sufficient record title to the land encumbered by the restrictions. If the Declaration's grantor is a partnership, the partnership shall provide to the District a partnership affidavit stating that the person executing the Declaration has the legal authority to restrict partnership land or convey an interest in the partnership land. If there exist any mortgages on the land, the permittee shall also have each mortgagee execute a consent and joinder of mortgagee subordinating the mortgage to the Declaration. The consent and joinder of mortgagee shall be recorded simultaneously with the Declaration in the public records of the county where the land is located.

Within 30 days of recording, the permittee shall provide the District with: (a) a certified copy of the Declaration (including exhibits) showing the date it was recorded and the official records book and page number, (b) a copy of the recorded plat (if applicable), (c) a surveyor's sketch of the restricted area plotted on the appropriate USGS topographic map, and (d) the original recorded consent and joinder of mortgagee documents (if applicable).

#### Demarcation of Restricted Area

Prior to lot or parcel sales, all changes in direction of the restricted area boundaries must be permanently monumented above ground on the project site.

26. Prior to initiating construction (including clearing and grading) the permittee must permanently monument the boundaries of all wetland and upland conservation areas, and install erosion control devices along all boundaries of preserved wetlands and uplands. Monumenting of the conservation area boundaries shall occur through the installation iron rebar or similar ferrous monument, and 2-inch PVC pipe protruding a minimum of 8 inches above grade or the seasonal high water line (whichever is higher), at all changes in direction of the conservation area boundaries.
27. Prior to any of the following events (whichever occurs first): issuance of the first certificate of occupancy; use of the infrastructure for its intended use; or transfer of responsibility for operation and maintenance of the system to a local government or other responsible entity, the permittee must install clearly-visible, permanent information signs advising residents of the conservation areas, spaced not further than 100 feet apart, along all conservation tract boundaries with lots or roads.
28. The stormwater management system must be inspected by the operation and maintenance entity once within two years after the completion of construction and every two years thereafter to insure that the system is functioning as designed and permitted. If a required inspection reveals that the system is not functioning as designed and permitted, then within 14 days of that inspection the entity shall submit an Exceptions Report on form number 40C-42.900(6), Exceptions Report for Stormwater Management System Out of Compliance. The operation and maintenance entity must maintain a record of each required inspection, including the date of inspection, the name, address, and telephone number of the inspector, and whether the system was functioning as designed and permitted, and make such record available for inspection upon request by the District during normal business hours.



### Notice Of Rights

1. A person whose substantial interests are or may be determined has the right to request an administrative hearing by filing a written petition with the St. Johns River Water Management District (District), or may choose to pursue mediation as an alternative remedy under Sections 120.569 and 120.573, Florida Statutes, before the deadline for filing a petition. Choosing mediation will not adversely affect the rights to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth in Sections 120.569 and 120.57, Florida Statutes, and Rules 28-106.111 and 28-106.401-405, Florida Administrative Code. Pursuant to Chapter 28-106 and Rule 40C-1.1007, Florida Administrative Code, the petition must be filed at the office of the District Clerk at District Headquarters, P. O. Box 1429, Palatka, Florida 32178-1429 (4049 Reid St., Palatka, FL 32177) within twenty-six (26) days of the District depositing notice of District decision in the mail (for those persons to whom the District mails actual notice) or within twenty-one (21) days of newspaper publication of the notice of District decision (for those persons to whom the District does not mail actual notice). A petition must comply with Chapter 28-106, Florida Administrative Code.
2. If the Governing Board takes action which substantially differs from the notice of District decision, a person whose substantial interests are or may be determined has the right to request an administrative hearing or may choose to pursue mediation as an alternative remedy as described above. Pursuant to District Rule 40C-1.1007, Florida Administrative Code, the petition must be filed at the office of the District Clerk at the address described above, within twenty-six (26) days of the District depositing notice of final District decision in the mail (for those persons to whom the District mails actual notice) or within twenty-one (21) days of newspaper publication of the notice of its final agency action (for those persons to whom the District does not mail actual notice). Such a petition must comply with Rule Chapter 28-106, Florida Administrative Code.
3. A substantially interested person has the right to a formal administrative hearing pursuant to Section 120.569 and 120.57(1), Florida Statutes, where there is a dispute between the District and the party regarding an issue of material fact. A petition for formal must comply with the requirements set forth in Rule 28-106.201, Florida Administrative Code.
4. A substantially interested person has the right to an informal hearing pursuant to Sections 120.569 and 120.57(2), Florida Statutes, where no material facts are in dispute. A petition for an informal hearing must comply with the requirements set forth in Rule 28-106.301, Florida Administrative Code.
5. A petition for an administrative hearing is deemed filed upon delivery of the petition to the District Clerk at the District headquarters in Palatka, Florida.
6. Failure to file a petition for an administrative hearing, within the requisite time frame shall constitute a waiver of the right to an administrative hearing (Section 28-106.111, Florida Administrative Code).
7. The right to an administrative hearing and the relevant procedures to be followed are governed by Chapter 120, Florida Statutes, and Chapter 28-106, Florida Administrative Code and Section 40C-1.1007, Florida Administrative Code.

### Notice Of Rights

8. An applicant with a legal or equitable interest in real property who believes that a District permitting action is unreasonable or will unfairly burden the use of his property, has the right to, within 30 days of receipt of notice of the District's written decision regarding a permit application, apply for a special master proceeding under Section 70.51, Florida Statutes, by filing a written request for relief at the office of the District Clerk located at District headquarters, P. O. Box 1429, Palatka, FL 32178-1429 (4049 Reid St., Palatka, Florida 32177). A request for relief must contain the information listed in Subsection 70.51(6), Florida Statutes.
9. A timely filed request for relief under Section 70.51, Florida Statutes, tolls the time to request an administrative hearing under paragraph no. 1 or 2 above (Paragraph 70.51(10)(b), Florida Statutes). However, the filing of a request for an administrative hearing under paragraph no. 1 or 2 above waives the right to a special master proceeding (Subsection 70.51(10)(b), Florida Statutes).
10. Failure to file a request for relief within the requisite time frame shall constitute a waiver of the right to a special master proceeding (Subsection 70.51(3), Florida Statutes).
11. Any substantially affected person who claims that final action of the District constitutes an unconstitutional taking of property without just compensation may seek review of the action in circuit court pursuant to Section 373.617, Florida Statutes, and the Florida Rules of Civil Procedures, by filing an action in circuit court within 90 days of the rendering of the final District action, (Section 373.617, Florida Statutes).
12. Pursuant to Section 120.68, Florida Statutes, a person who is adversely affected by final District action may seek review of the action in the District Court of Appeal by filing a notice of appeal pursuant to the Florida Rules of Appellate Procedure within 30 days of the rendering of the final District action.
13. A party to the proceeding before the District who claims that a District order is inconsistent with the provisions and purposes of Chapter 373, Florida Statutes, may seek review of the order pursuant to Section 373.114, Florida Statutes, by the Florida Land and Water Adjudicatory Commission, by filing a request for review with the Commission and serving a copy on the Department of Environmental Protection and any person named in the order within 20 days of adoption of a rule or the rendering of the District order.
14. For appeals to the District Court of Appeal, a District action is considered rendered after it is signed on behalf of the District, and is filed by the District Clerk.
15. Failure to observe the relevant time frames for filing a petition for judicial review described in paragraphs #11 and #12, or for Commission review as described in paragraph #13, will result in waiver of that right to review.

**Notice Of Rights  
Certificate of Service**

I HEREBY CERTIFY that a copy of the foregoing Notice of Rights has been sent by U.S. Mail to:

Foster Enterprises for California Partnership  
1140 7th Court, Suite F  
Vero Beach, FL 32960

At 4:00 p.m. this 11th day of October, 2005.

*Gloria Lewis*

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Division of Permit Data Services  
Gloria Lewis, Director

St. Johns River Water Management District  
Post Office Box 1429  
Palatka, FL 32178-1429  
(386) 329-4152  
Permit Number: 40-061-96176-1

**DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS  
FOR  
HUNTINGTON PLACE**

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**EXHIBIT "C"**  
**(Conservation Easement)**

RECORD AND RETURN TO:  
C J. ATWOOD TAYLOR, III, ESQ.  
SUITE 200  
5070 NORTH A-17A  
VENO BEACH, FL 33583  
772-251-4440

Prepared by:  
~~Record and return to:~~  
Office of General Counsel  
St. Johns River Water Management District  
4049 Reid Street  
Palatka, Florida 32177

1760816  
THIS DOCUMENT HAS BEEN RECORDED  
IN THE PUBLIC RECORDS OF  
INDIAN RIVER COUNTY FL  
BK: 2045 PG:105, Page1 of 10  
06/14/2006 at 09:31 AM,  
D DOCTAX PD \$0.70  
JEFFREY K BARTON, CLERK OF  
COURT

**DEED OF CONSERVATION EASEMENT**

THIS DEED OF CONSERVATION EASEMENT is given this 2<sup>nd</sup> day of June, 2006 by FOSTER I.R.C., LLC, a California limited liability company authorized to do business in Florida (hereinafter referred to as "Grantor"), whose mailing address is 250-A Twin Dolphin Drive, Redwood City, California 94065, to the ST. JOHNS WATER MANAGEMENT DISTRICT (hereinafter referred to as either "Grantee" or "District"). As used herein, the term *Grantor* shall include any and all heirs, successors or assigns of Grantor, and all subsequent owners of the *Property* (as hereinafter defined) and the term *Grantee* shall include any successor or assignee of Grantee.

WHEREAS, Grantor is the owner of certain lands situated in Indian River County, Florida, and more specifically described in EXHIBIT "A" attached hereto and incorporated herein by reference (heretofore and hereinafter referred to as the "Property"); and

WHEREAS, Grantor desires to construct and develop a subdivision known as HUNTINGTON PLACE SUBDIVISION (hereinafter referred to as the "Project") at a site in Indian River County, which is subject to the regulatory jurisdiction of the District; and

WHEREAS, District Permit No. 40-061-96176-1 (hereinafter referred to as the "Permit") authorizes certain activities which affect waters in or of the State of Florida; and

WHEREAS, this Permit requires that Grantor preserve, enhance, restore and/or mitigate wetlands and/or uplands under the District's jurisdiction; and

WHEREAS, Grantor, in consideration of the consent granted by the Permit, is agreeable to granting and securing to Grantee a perpetual Conservation Easement as defined in Section 704.06, *Florida Statutes*, over the Property.

NOW, THEREFORE, in consideration of the issuance of the Permit to construct and operate the permitted activity, and as an inducement to Grantee in issuing the Permit, together with other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, Grantor hereby grants, creates, and establishes a

perpetual Conservation Easement for and in favor of Grantee upon the Property which shall run with the land and be binding upon Grantor, and shall remain in full force and effect forever.

The scope, nature, and character of this Conservation Easement shall be as follows:

1. **Recitals.** The above recitals are hereby affirmed as being true and correct and are incorporated in this Agreement by reference.

2. **Purpose.** The purpose of this Conservation Easement is to assure that the Property will be retained forever in the existing natural condition and to prevent any use of the Property that will impair or interfere with the environmental value of the Property. Those wetland and/or upland areas included in this Conservation Easement which are to be enhanced or created pursuant to the Permit shall be retained and maintained in the enhanced or created conditions required by the Permit.

To carry out this purpose, the following rights are conveyed to Grantee by this easement:

a. To enter upon the Property at reasonable times with any necessary equipment or vehicles to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Property by Grantor at the time of such entry; and

b. To enjoin any activity on or use of the Property that is inconsistent with this Conservation Easement and to enforce the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

3. **Prohibited Uses.** Any activity on or use of the Property that is inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

c. Removal or destruction of trees, shrubs, or other vegetation;

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

e. Surface use except for purposes that permit the land or water area to remain in its natural or enhanced condition;

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking, and fencing;

g. Acts or uses detrimental to such aforementioned retention of land or water areas;

h. Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archaeological, or cultural significance.

4. **Grantor's Reserved Rights.** Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Property that are not prohibited herein and which are not inconsistent with any District rule, criteria, permit and the intent and purposes of this Conservation Easement.

5. **No Dedication.** No right of access by the general public to any portion of the Property is conveyed by this Conservation Easement.

6. **Grantee's Liability.** Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep or maintenance of the Property.

7. **Acts Beyond Grantor's Control.** Nothing contained in this instrument shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in any portion of the Property other than Conservation Areas specified in Permit No. 40-061-96176-1, that result from natural causes beyond Grantor's control, and not initiated by Grantor, including but not limited to fire, flood, storm, and earth movement. Should any Conservation Area be injured or changed from natural causes, including but not limited to fire, flood, storm, and earth movement, Grantor shall be provided notice and a reasonable opportunity to restore the affected Conservation Area to a condition that satisfies the permit requirements prior to Grantee bringing any action for noncompliance with the Permit.

8. **Property Taxes.** Grantor shall keep the payment of taxes and assessments on the Easement Parcel current and shall not allow any lien on the Easement Parcel superior to this Easement. In the event Grantor fails to extinguish or obtain a subordination of such lien, in addition to any other remedy, Grantee may, but shall not be obligated to, elect to pay the lien on behalf of Grantor and Grantor shall reimburse Grantee for the amount paid by Grantee, together with Grantee's reasonable attorneys' fees and costs, with interest at the maximum rate allowed by law, no later than fifty (50) days after such payment. In the event Grantor does not so reimburse Grantee, the debt owed to Grantee shall constitute a lien against the Easement Parcel which shall automatically relate back to the recording date of this Easement. Grantee may foreclose this lien on the Easement Parcel in the manner provided for mortgages on real property.

9. **Enforcement.** Enforcement of the terms, provisions, and restrictions of this Conservation Easement shall be at the reasonable discretion of Grantee, and any

forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder.

10. **Assignment.** Grantee will hold this Conservation Easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement except to another organization or entity qualified to hold such interests under the applicable state laws.

11. **Severability.** If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

12. **Terms and Restrictions.** Grantor shall insert the terms and restrictions of this Conservation Easement in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Property.

13. **Written Notice.** All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

14. **Modifications.** This Conservation Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in Indian River County.

**TO HAVE AND TO HOLD** unto Grantee forever. The covenants, terms, conditions, restrictions, and purposes imposed with this Conservation Easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Property.

Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said Property in fee simple; that the Property is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement; and all mortgages and liens have been subordinated to this Conservation Easement by joinder of all mortgagees and lienholders; and that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends the title to the Conservation Easement hereby conveyed against the lawful claims of all persons whomsoever.



IN WITNESS WHEREOF, Grantor has caused these presents to be executed this 2nd day of June, 2006.

Signed, sealed, and delivered in the presence of:

"Grantor"

FOSTER I.R.C., LLC, a California limited liability company authorized to do business in Florida

Lisolette Owens  
(Name: Lisolette Owens)

By: Mark Foster  
MARK FOSTER, Managing Member

Arlene Dozier  
(Name: Arlene Dozier)

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

I HEREBY CERTIFY that before me, a Notary Public, personally appeared **MARK FOSTER, as Managing Member of FOSTER I.R.C., LLC, a California limited liability company authorized to do business in Florida**, who did acknowledge and swear before me that said person executed the foregoing instrument for the uses and purposes therein set forth on behalf of said company. I further state that (check one) \_\_\_\_\_ I have examined the current driver's license of the aforesaid person or \_\_\_\_\_ I am familiar with the identity of the aforesaid person and have confirmed said person's identity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at the County and State aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

*Please see attached loose certificate*

NOTARY PUBLIC, STATE OF CALIFORNIA  
(Name: \_\_\_\_\_)

My commission expires:

(Affix Seal)

### CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }  
County of San Mateo } ss.

On June 2, 2006, before me, Martha Mendoza, a Notary Public,  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Mark C. Foster  
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

[Signature]  
Signature of Notary Public

#### OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

#### Description of Attached Document

Title or Type of Document: Deed of Conservation Easement

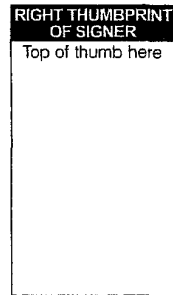
Document Date: June 2, 2006 Number of Pages: Seven (7)

Signer(s) Other Than Named Above: Lisolette Owens + Arlene Dozier - witnesses

#### Capacity(ies) Claimed by Signer

Signer's Name: Mark C. Foster

- Individual
- Corporate Officer — Title(s): Managing Member
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: Foster I.B.C., LLC

**MORTGAGEE JOINDER, CONSENT, AND SUBORDINATION**

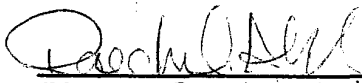
For Ten Dollars (\$10.00) and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, **BANK OF AMERICA, N.A.**, the owner and holder of a mortgage dated January 12, 2005, in the original principal amount of \$7,125,000.00, given by **FOSTER I.R.C., LLC, a California limited liability company, authorized to do business in Florida** ("Grantor"), to **BANK OF AMERICA, N.A.** ("Mortgagee"), encumbering the real property described on EXHIBIT "A" attached hereto and incorporated herein by reference (the "Property"), which is recorded in Official Records Book 1824, at Page 799 (together with that certain Assignment of Leases and Rents recorded in Official Records Book 1824, at Page 818 and that certain UCC-1 Financing Statement recorded in Official Records Book 1824, at Page 825), all of the Public Records of Indian River County, Florida (said Mortgage, Assignment of Leases and Rents, and UCC-1 Financing Statement, as modified, are hereinafter collectively referred to as the "Mortgage"), hereby joins in, consents to and subordinates the lien of its Mortgage, as it has been, and as it may be, modified, amended, and assigned from time to time, to the foregoing Conservation Easement, executed by **FOSTER I.R.C., LLC, a California limited liability company**, in favor of the St. Johns Water Management District applicable to the Property ("Easement"), as said Easement may be modified, amended, and assigned from time to time, with the intent that the Mortgage shall be subject and subordinate to the Easement.

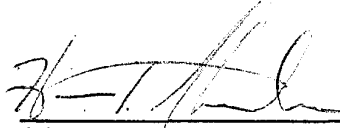
**IN WITNESS WHEREOF**, this Mortgagee Joinder, Consent, and Subordination is made this 31<sup>st</sup> day of MAY, 2006.


Signed, sealed, and delivered in the presence of:

"Mortgagee"

**BANK OF AMERICA, N.A.**

  
(Name: Raeche A. Koh, AVP)

By:   
(Name: Hans E. Starks)  
(Title: Vice President)

  
(Name: TERESA Ho MARKS)

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF ALAMEDA )

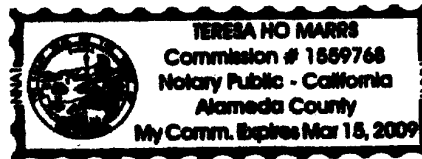
I HEREBY CERTIFY that before me, a Notary Public, personally appeared HANS E. STARKS, as VICE PRESIDENT of **BANK OF AMERICA, N.A.**, who did acknowledge and swear before me that said person executed the foregoing instrument for the uses and purposes therein set forth on behalf of said banking institution. I further state that (check one)        I have examined the current driver's license of the aforesaid person or ✓ I am familiar with the identity of the aforesaid person and have confirmed said person's identity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at the County and State aforesaid this 31<sup>st</sup> day of MAY, 2006.

Teresa Ho Marrs  
NOTARY PUBLIC, STATE OF CALIFORNIA  
(Name: TERESA HO MARRS)

My commission expires:

(Affix Seal)



**EXHIBIT "A"**

**Sketch of Legal Description  
for a Conservation Easement  
at the Huntington Place Site  
Indian River County, Florida**

Sheet 1 of 2

Not Valid Without All Sheets

**SURVEYORS NOTES**

- 1) THE BEARING BASIS IS THE SOUTH LINE OF TRACT 1, BEING S89°53'53"W.
- 2) THIS SKETCH EXISTS SOLELY FOR THE PURPOSE OF ILLUSTRATING THE LEGAL DESCRIPTION TO WHICH IT IS ATTACHED.
- 3) ALL DIMENSIONS ARE CALCULATED UNLESS OTHERWISE NOTED.
- 4) THIS SKETCH MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 81G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

**LEGEND**

R/W	RIGHT-OF-WAY
NO.	NUMBER
R	RADIUS
L	LENGTH
CH	CHORD DISTANCE
CB	CHORD BEARING
PSM	PROFESSIONAL SURVEYOR AND MAPPER
Δ	DELTA ANGLE
N	NORTH
S	SOUTH
E	EAST
W	WEST

**LEGAL DESCRIPTION**

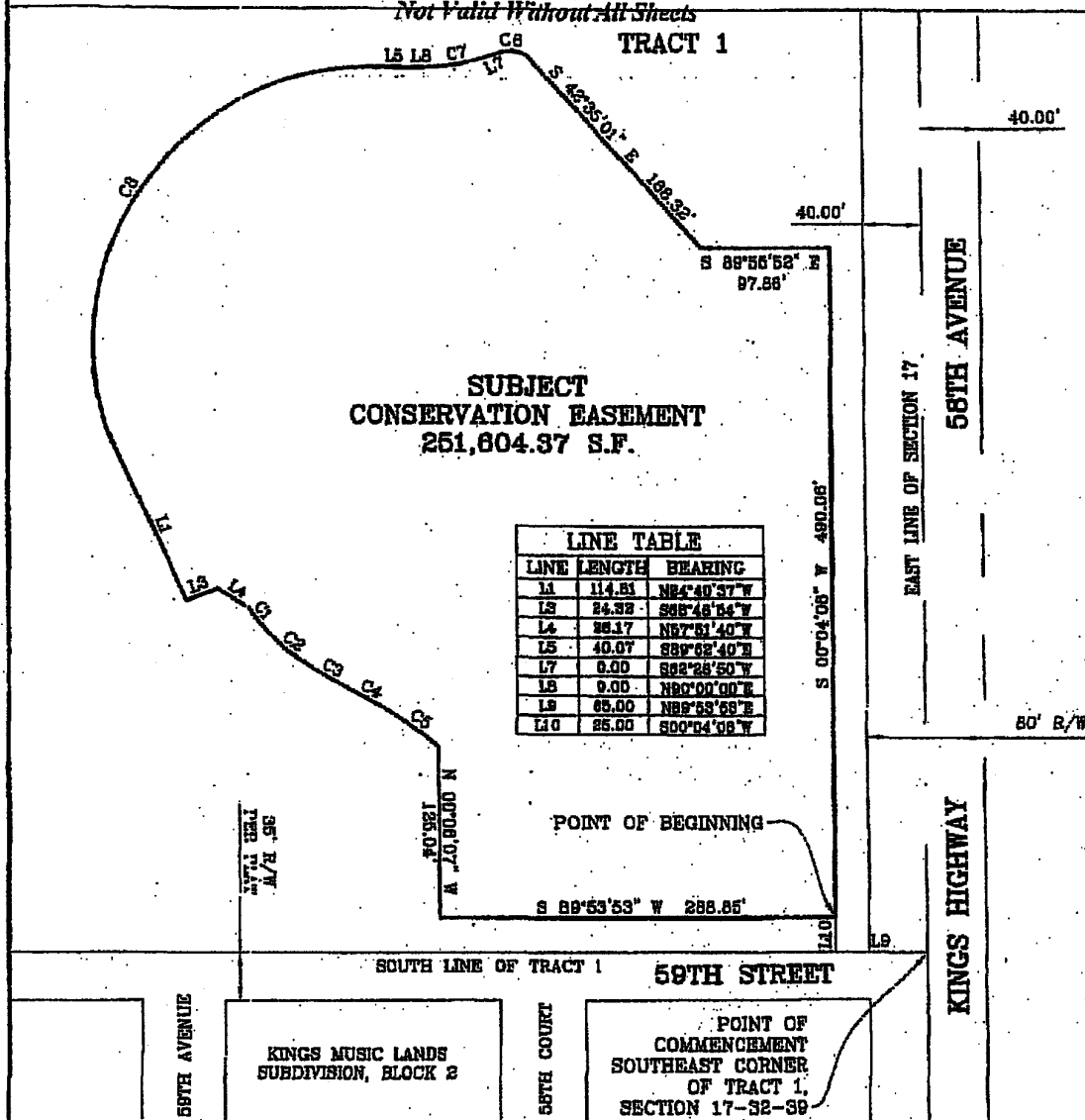
A PORTION OF TRACT 1, SECTION 17, TOWNSHIP 32 SOUTH, RANGE 39 EAST, ACCORDING TO THE LAST GENERAL PLAT OF THE LANDS OF THE INDIAN RIVER FARMS COMPANY AS FILED IN PLAT, BOOK 2, PAGE 12 OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA, NOW INDIAN RIVER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
 COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT 1; THENCE S.89°53'53"W. ALONG THE SOUTH LINE OF SAID TRACT 1, A DISTANCE OF 65.00 FEET; THENCE N.00°04'08"E., A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING; THENCE S.89°53'53"W. AND PARALLEL WITH THE SAID SOUTH OF TRACT 1, A DISTANCE OF 288.85 FEET; THENCE N.00°08'07"W., A DISTANCE OF 125.04 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S.42°15'00"W., A RADIAL DISTANCE OF 218.60 FEET; THENCE NORTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 11°37'38", A DISTANCE OF 44.36 FEET TO A POINT OF COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 592.62 FEET AND A CENTRAL ANGLE OF 03°51'12"; THENCE NORTHWESTERLY ALONG THE ARC, A DISTANCE OF 39.86 FEET TO A POINT OF REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 235.88 FEET AND A CENTRAL ANGLE OF 08°23'35"; THENCE NORTHWESTERLY ALONG THE ARC, A DISTANCE OF 26.32 FEET TO A POINT OF COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 178.64 FEET AND A CENTRAL ANGLE OF 14°07'38"; THENCE NORTHWESTERLY ALONG THE ARC, A DISTANCE OF 44.05 FEET TO A POINT OF COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 189.78 FEET AND A CENTRAL ANGLE OF 06°09'04"; THENCE NORTHWESTERLY ALONG THE ARC, A DISTANCE OF 20.37 FEET; THENCE N.57°51'40"W., A DISTANCE OF 26.17 FEET; THENCE S.68°46'54"W., A DISTANCE OF 24.32 FEET; THENCE N.24°40'37"W., A DISTANCE OF 114.81 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 200.00 FEET AND A CENTRAL ANGLE OF 114°47'57"; THENCE NORTHEASTERLY ALONG THE ARC A DISTANCE OF 400.72 FEET; THENCE S.89°52'40"E., A DISTANCE OF 40.07 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 150.00 FEET AND A CENTRAL ANGLE OF 21°13'56"; THENCE EASTERLY ALONG THE ARC A DISTANCE OF 55.59 FEET TO A POINT OF REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 48°11'06"; THENCE EASTERLY ALONG THE ARC, A DISTANCE OF 21.02 FEET; THENCE S.42°35'0"E., A DISTANCE OF 188.32 FEET; THENCE S.89°55'52"E., A DISTANCE OF 87.86 FEET; THENCE S.C0°04'08"W., A DISTANCE OF 490.06 FEET TO THE POINT OF BEGINNING. CONTAINING 251,834.37 SQUARE FEET OR 5.7760 ACRES, MORE OR LESS.

SKETCH OF LEGAL DESCRIPTION "This is NOT a Boundary Survey"	Drawn by: DMT	Checked by: DMT	File name: 5447.02	Date: 08/11/05	Scale: N/A	disk #: CD	Drawing Name: 5447-02.dwg
<b><i>MASTELLER, MOLER &amp; REED INC.</i></b> PROFESSIONAL SURVEYORS AND MAPPERS LAND SURVEYING BUSINESS #464 1655 27th Street, Suite 2, Vero Beach, Florida 32960 Phone: (772) 564-8050 Fax: (772) 794-0647				NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. DAVID M. TAYLOR, P.S.M. #5243			

# Sketch of Legal Description for a Conservation Easement at the Huntington Place Site Indian River County, Florida

Sheet 2 of 2

Not Valid Without All Sheets



LINE TABLE		
LINE	LENGTH	BEARING
L1	114.51	N84°40'37"W
L2	24.32	S88°48'54"W
L4	25.17	N87°51'40"W
L5	40.07	S88°28'40"E
L7	0.00	S88°28'40"W
L8	0.00	N80°00'00"E
L9	65.00	N89°53'53"E
L10	25.00	S00°04'08"W

CURVE TABLE											
CURVE	LENGTH	RADIUS	DELTA	CHORD	CH BEARING	CURVE	LENGTH	RADIUS	DELTA	CHORD	CH BEARING
C1	80.87	189.711	6°09'04"	20.58	S39°29'06"E	C5	44.95	218.60	11°37'38"	44.29	N65°33'30"W
C2	44.05	178.54	14°07'38"	45.93	S48°46'37"E	C6	21.02	25.00	48°11'08"	20.41	N87°01'02"W
C3	25.32	235.84	5°23'35"	26.31	S80°02'03"E	C7	55.59	150.00	21°13'55"	55.27	N78°30'22"E
C4	39.65	592.81	3°51'12"	39.65	N61°15'15"W	C8	400.72	200.00	114°47'57"	356.95	S32°43'22"W

SKETCH OF LEGAL DESCRIPTION "This is NOT a Boundary Survey"	Drawn by: DMT	Checked by: DMT	File name: 5447.02	Date: 08/11/05	Scale: 1"=100'	disk #: CD	Drawing Name: 5447-02.dwg
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**MASTELLER, MOLER & REED INC**  
 PROFESSIONAL SURVEYORS AND MAPPERS  
 LAND SURVEYING BUSINESS #4644

1655 27th Street, Suite 2, Vero Beach, Florida 32960  
 Phone: (772) 564-8050 Fax: (772) 794-0647

NOT VALID WITHOUT THE SIGNATURE AND  
 THE ORIGINAL RAISED SEAL OF A FLORIDA  
 LICENSED SURVEYOR AND MAPPER.

*David M. Taylor*  
 DAVID M. TAYLOR, P.S.M. #5243

**DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS  
FOR  
HUNTINGTON PLACE**

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**EXHIBIT "D"**

**(Letter from Indian River County  
dated August 22, 2006)**

**BOARD OF COUNTY COMMISSIONERS**

1840 25th Street, Vero Beach, Florida 32960-3365

Telephone: 772-567-8000



FAX: 772-778-9391

August 22, 2006

Rafael Ospina  
Michael Thorpe Real Estate, Inc.  
870 21<sup>st</sup> Street  
Vero Beach, FL 32963

Subject: Huntington Place Subdivision – Lot Filling and Clearing

Dear Mr. Ospina:

The County Public Works Department, Community Development Department, and County Attorney's office have reviewed your recent request to allow lot clearing and filling Huntington Place Subdivision to occur within a 2 year period following sale of each lot. Whereas we prefer all lot clearing and filling prior to a Certificate of Completion being issued, we understand that this particular subdivision was approved at the same time that the filling requirement was imposed. As you know, our primary concerns are positive drainage for each lot being created and protection of new roads from heavy fill trucks and clearing equipment. The restrictions and the conditions you have proposed are:

1. Each lot purchase has 2 years after closing to fill (to at least 75% finish grade) and clear his/her lot.
2. If the lot purchaser does not comply with Number 1 above, then the Developer or Property Owner's Association will clear and fill said lot and assess the lot owner the cost plus 10%.
3. The Developer shall place a 3-year maintenance bond with the County for road, drainage, utilities, and required infrastructure.

Enclosed is a marked-up copy of the aforementioned policy that you submitted.



PAGE TWO

Michael Thorpe Real Estate, Inc.  
August 22, 2006

Please make all corrections as noted and return for our files. Also, we need to receive an implementation program whereby each contract for purchase contain the policy language as well as the POA documents and final plat documents.

Please contact me if you have any questions.

Sincerely,



James W. Davis, P.E., Public Works Director

JWD/jmw

cc: Bob Keating, AICP, Community Development Director  
Stan Boling, AICP, Planning Director  
William K. DeBaal, Assistant County Attorney  
Christopher J. Kafer, Jr., P.E., County Engineer

/enclosure

**Lot Clearing and Filling.** Owner shall have the duty and responsibility at the Owner's expense to fill the said Lot to the extent of no less than seventy-five (75%) percent of final grade within two (2) calendar years of the date of recording this Plat or of closing and title transfer from the Developer to said Owner (hereinafter referred to as the "Fill Period"), whichever is sooner. No extensions of the Fill Period shall be granted and may not be granted by either the Developer or the Association.

Subsequent title transfers of the Lot by the Owner shall not have the effect of extending the Fill Period.

In the event the Owner fails to fill the said Lot as required above and by no later than the expiration of the Fill Period, then the Developer, if prior to the turnover of the Association, or the Association, if after turnover of the Association, shall complete the filling of the Lot; and, the total cost of the same plus ten (10%) percent of such total cost shall be and be deemed an obligation of the Owner and the equivalent of an unpaid assessment, payable within thirty (30) days of written demand for payment from either the Developer or the Association, as the party which has paid the costs. Should the Owner not reimburse the Developer or the Association for the total cost plus ten (10%) percent of such total cost within thirty (30) days of written demand, the unpaid sum shall accrue interest at the rate of nine (9%) percent per annum; and either the Developer or the Association, as the party which has paid the costs, shall be entitled to and may file a Claim of Lien to secure said costs and all accrued interest thereon, and said party may foreclose that Claim of Lien and in addition file an action for damages in the same manner as unpaid assessments may be collected and a Claim of Lien for unpaid assessments foreclosed.

**Maintenance Bond.** In order to satisfy the requirements of Indian River County, Florida, Developer shall by no later than \_\_\_\_\_, 2006, as the principal, procure a maintenance bond in the amount of \$\_\_\_\_\_ in a form satisfactory to Indian River County, Florida, which shall name Indian River County, Florida as the obligee.

The bond shall either be a cash bond posted by the Developer with Indian River County, Florida, or Developer shall procure a bond from a surety satisfactory to Indian River County, Florida. The bond shall remain in place and effective for two (2) consecutive years from the date of posting or acquisition.

The condition of the bond shall be that the Developer shall maintain and preserve the infrastructure of the Subdivision for three (3) consecutive years after the final plat of the Subdivision is approved by all required governmental agencies. For so long as Indian River County, Florida has not had cause to draw upon fully the maintenance bond during the three (3) year period, the bond (or the balance remaining) shall be released to the Developer and discharged at the conclusion of the three (3) year period.

The Developer shall not transfer to the Association the obligation to maintain the infrastructure of the Subdivision until the earlier of either: (a) seventy-five (75%) percent of all of the Lots in the Subdivision have been filled, as provided above in subparagraph \_\_\_\_; or (b) the three (3) year period during which the maintenance bond is in effect shall have expired.

# State of Florida



## Department of State

I certify from the records of this office that HUNTINGTON PLACE PROPERTY OWNERS' ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on November 22, 2004.

The document number of this corporation is N04000011079.

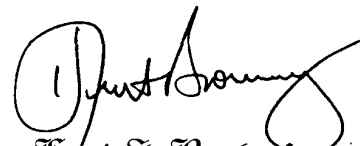
I further certify that said corporation has paid all fees due this office through December 31, 2006, that its most recent annual report/uniform business report was filed on May 1, 2006, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Third day of January, 2007



CR2EO22 (01-07)

  
Kurt S. Browning  
Secretary of State

# State of Florida



## Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation, as amended to date, of HUNTINGTON PLACE PROPERTY OWNERS' ASSOCIATION, INC., a corporation organized under the laws of the State of Florida, as shown by the records of this office.

The document number of this corporation is N04000011079.

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Fifth day of December, 2006



CR2EO22 (01-06)

*Sue M. Cobb*  
Sue M. Cobb  
Secretary of State

**ARTICLES OF INCORPORATION**  
**OF**  
**HUNTINGTON PLACE**  
**PROPERTY OWNERS' ASSOCIATION, INC.**

The undersigned incorporator hereby forms a not-for-profit corporation under Chapter 617 of the laws of the State of Florida. The said entity shall function pursuant to the provisions of Chapters 607, 617, and 720, respectively, of the *Florida Statutes* and pursuant to general law.

**ARTICLE I. NAME**

The name of the corporation shall be as follows:

**HUNTINGTON PLACE PROPERTY OWNERS' ASSOCIATION, INC.**

04 NOV 22 PM 2:40  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

FILED

The principal place of business of this corporation (hereinafter referred to as either the "corporation" or as the "Association") shall be c/o Suite 200, The Oak Point Professional Center, 5070 North Highway A-1-A, Vero Beach, Florida 32963, and the mailing address shall be the same.

**ARTICLE II. PURPOSE OF POWERS.**

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the residential Lots and Common Area within that certain tract of property described as:

See EXHIBIT "A" attached hereto and incorporated herein by reference;

and to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association and for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions, and Restrictions for Huntington Place (hereinafter referred to as the "Declaration"), applicable to the property and to be recorded in the Office of the Clerk of the Circuit Court of Indian River County, Florida and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate, for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, and with the asset of two-thirds (2/3rds) of the voting interests of the members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the two-thirds (2/3rds) of the voting interests of the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3rds) of the voting interests of the members, agreeing to such dedication, sale or transfer;

(f) participate in mergers and consolidations with other not-for-profit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3rds) of the voting interests of the members;

(g) have and exercise any and all powers, rights, and privileges which a corporation organized under Chapter 617, *Florida Statutes*, by law may now or thereafter have or exercise; and

(h) the Association shall operate, maintain and manage the surface water or stormwater management system(s) in a manner consistent with the St. Johns River Water Management District permit requirements and applicable District rules, and shall assist in the enforcement of the Declaration, which pertain to the surface water or stormwater management system.

The Association shall levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the surface water or stormwater management system.

**ARTICLE III. MEMBERSHIP**

Every person or entity, who is a record owner of a fee or undivided fee interest of any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

**ARTICLE IV. ADDRESS**

The street address of the initial registered office of the corporation shall be 5070 North Highway A-1-A, Suite 200, Vero Beach, Florida 32963, and the name of the initial registered agent of the corporation at that address is J. ATWOOD TAYLOR, III.

**ARTICLE V. TERM OF EXISTENCE**

This corporation shall be deemed to exist and its operation commenced upon the filing of these Articles of Incorporation with the Secretary of State of the State of Florida, Tallahassee, Florida. This corporation is to exist perpetually.

**ARTICLE VI. VOTING RIGHTS**

The Association shall have two (2) classes of voting membership:

**Class A.** Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

**Class B.** The Class B member shall be the Declarant, as defined in the Declaration, and shall be entitled to four (4) votes for each Lot owned.

**ARTICLE VII. DISSOLUTION**

The Association may be dissolved with the assent given in writing and executed by not less than eighty (80.0%) percent of the voting interests of the members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any not-for-profit corporation, association, trust or other organization to be devoted to such similar purposes.

In the event of termination, dissolution, or final liquidation of the Association, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity that would comply with Section 40C-42.027, F.A.C., and be approved by the St. Johns River Water Management District prior to such termination, dissolution, or liquidation.

### **ARTICLE VIII. BOARD OF DIRECTORS**

This corporation initially shall have two (2) directors. The names and street addresses of the initial directors are as follows:

**TODD FOSTER - Director**  
250A Twin Dolphin Drive  
Redwood City, California 94065

**MARK FOSTER - Director**  
250A Twin Dolphin Drive  
Redwood City, California 94065

The manner in which the directors shall be elected shall be as specified and set forth in the By-Laws adopted by the corporation.

### **ARTICLE IX. AMENDMENTS**

Amendment of these Articles shall require the assent of seventy-five (75%) percent of the voting interests of the members. The right to amend the By-Laws shall be vested in the members as set forth therein.

### **ARTICLE X. INCORPORATOR**

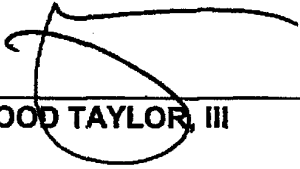
The name and street address of the incorporator to these Articles of Incorporation are as follows:

**ROSSWAY MOORE & TAYLOR**  
c/o J. Atwood Taylor, III  
5070 N. Highway A-1-A, Suite 200  
Vero Beach, Florida 32963.



**IN WITNESS WHEREOF**, the undersigned has hereunto set his hand and seal on this 16<sup>th</sup> day of November, 2004.

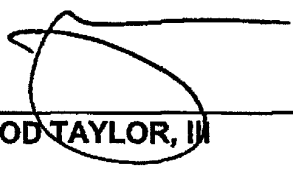
**ROSSWAY MOORE & TAYLOR**

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

**J. ATWOOD TAYLOR, III**

**ACCEPTANCE OF REGISTERED AGENT DESIGNATED  
IN ARTICLES OF INCORPORATION**

**J. ATWOOD TAYLOR, III**, whose address is as follows: 5070 North Highway A-1-A, Suite 200, Vero Beach, Florida 32963, which is the same address as set forth in Article IV hereof, having been designated as the Registered Agent in the above and foregoing Articles, is familiar with and accepts the obligations of the position of Registered Agent under Section 607.0505, *Florida Statutes*, and other applicable law.

  
\_\_\_\_\_

**J. ATWOOD TAYLOR, III**

Date: November 16, 2004

F:\Taylor\Sherr\Documents-2004\126967.wpd

FILED  
04 NOV 22 PM 2:40  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**EXHIBIT "A"**

**Legal Description  
for  
HUNTINGTON PLACE**

Tract 1 and the East 30.38 acres of Tract 2, Section 17, Township 32 South, Range 39 East, according to the Last General Plat of the Lands of The Indian River Farms Company as filed in Plat Book 2, Page 12 of the Public Records of St. Lucie County, Florida, now Indian River County, Florida.

**ARTICLES OF AMENDMENT AND RESTATED  
ARTICLES OF INCORPORATION**

**OF**

**HUNTINGTON PLACE  
PROPERTY OWNERS' ASSOCIATION, INC.**

CLERK OF STATE  
TALLAHASSEE, FLORIDA

06 MAR 27 AM 8:23

**FILED**

The undersigned hereby file these Articles of Amendment and Restated Articles of Incorporation pursuant to Chapter 617 of the laws of the State of Florida. The Board of Directors has adopted these Articles of Amendment and Restated Articles of Incorporation; Member approval is not required. The said entity shall function pursuant to and have the powers delineated in the provisions of Chapters 607, 617, and 720, respectively, of the *Florida Statutes* and pursuant to general law. The Articles of Incorporation are amended and restated in their entirety as follows:

**ARTICLE I. NAME**

The name of the corporation shall be as follows:

**HUNTINGTON PLACE PROPERTY OWNERS'  
ASSOCIATION, INC.**

The principal place of business of this corporation (hereinafter referred to as either the "corporation" or as the "Association") shall be c/o Suite 200, The Oak Point Professional Center, 5070 North Highway A-1-A, Vero Beach, Florida 32963, and the mailing address shall be the same.

**ARTICLE II. PURPOSE OF POWERS**

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation, and architectural control of the Lots and Common Area within that certain tract of property described as:

See EXHIBIT "A" attached hereto and incorporated herein by reference;

and to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association and for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions, and Restrictions for Huntington Place (hereinafter referred to as the "Declaration") applicable to the property and to be recorded in the Office of the Clerk of the Circuit Court of Indian River County, Florida and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth herein in full, including as periodically modified and amended; such powers include the authority to adopt rules and regulations, to file suit and be sued, and to contract for necessary services for the benefit of the Association;

(b) fix, levy, assess, collect, and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate, for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, and with the asset of two-thirds (2/3rds) of the voting interests of the members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the two-thirds (2/3rds) of the voting interests of the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3rds) of the voting interests of the members, agreeing to such dedication, sale or transfer;

(f) participate in mergers and consolidations with other not-for-profit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3rds) of the voting interests of the members;

(g) have and exercise any and all powers, rights, and privileges that a corporation organized under Chapter 607, Chapter 617, Chapter 720, respectively, *Florida Statutes*, by law may now or thereafter have or exercise, including but not limited to all of the powers set forth in Section 617.0302, *Florida Statutes*; and

(h) the Association shall operate, maintain, and manage the surface water or stormwater management system(s) in a manner consistent with the St. Johns River Water

Management District permit requirements and applicable District rules, and shall assist in the enforcement of the Declaration, which pertain to the surface water or stormwater management system.

The Association shall levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the surface water or stormwater management system.

### **ARTICLE III. MEMBERSHIP**

Every person or entity, who is a record owner of a fee or undivided fee interest of any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

### **ARTICLE IV. ADDRESS**

The street address of the initial registered office of the corporation shall be 5070 North Highway A-1-A, Suite 200, Vero Beach, Florida 32963, and the name of the initial registered agent of the corporation at that address is **J. ATWOOD TAYLOR, III**.

### **ARTICLE V. TERM OF EXISTENCE**

This corporation shall be deemed to exist and its operation commenced upon the filing of these Articles of Incorporation with the Secretary of State of the State of Florida, Tallahassee, Florida. This corporation is to exist perpetually.

### **ARTICLE VI. VOTING RIGHTS**

The Association shall have two (2) classes of voting membership:

**Class A.** Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

**Class B.** The Class B member shall be the Declarant, as defined in the Declaration, and shall be entitled to four (4) votes for each Lot owned.

**ARTICLE VII. DISSOLUTION**

The Association may be dissolved with the assent given in writing and executed by not less than eighty (80.0%) percent of the voting interests of the members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any not-for-profit corporation, association, trust or other organization to be devoted to such similar purposes.

In the event of termination, dissolution, or final liquidation of the Association, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity that would comply with Section 40C-42.027, F.A.C., and be approved by the St. Johns River Water Management District prior to such termination, dissolution, or liquidation.

**ARTICLE VIII. BOARD OF DIRECTORS**

This corporation initially shall have two (2) directors. The names and street addresses of the initial directors are as follows:

**TODD FOSTER** - Director  
250A Twin Dolphin Drive  
Redwood City, California 94065

**MARK FOSTER** - Director  
250A Twin Dolphin Drive  
Redwood City, California 94065

The manner in which the directors shall be elected shall be as specified and set forth in the By-Laws adopted by the corporation.

**ARTICLE IX. AMENDMENTS**

Amendment of these Articles shall require the assent of seventy-five (75%) percent of the voting interests of the members. The right to amend the By-Laws shall be vested in the members as set forth therein. Any amendment affecting the Surface Water Management System or any other system or plan permitted or approved by either the St. Johns River Water Management District or Indian River County shall have been first approved by the party exercising jurisdiction over the system or plan.

**ARTICLE X. SJRWMD REQUIREMENTS**

**Section 6. Definitions.** When used in these Articles in this Section the following terms will have the following meanings:

**(a) "SJRWMD" or "District"** means and has meant throughout these Articles, where previously used, the South Florida Water Management District, or its successor entity.

**(b) "Surface Water Management System"** means the Surface Water Management System or Storm Water Management System for the Property constructed pursuant to the SJRWMD permit which Surface Water Management System constitutes a part of the Common Areas. The Association owns or shall own the Common Area and owns the Surface Water Management System and hereby accepts responsibility for the operation and maintenance of the Surface Water Management System described in the SJRWMD application and the SJRWMD Permit.

**(c) Surface Water Management System Easements.** The Declarant hereby reserves unto Declarant and grants to the Association, subject to the terms and conditions of these Articles, a non-exclusive easement burdening the areas of the Property designated on the Plat (and associated control structures), said areas being for the purpose of the Association effectively maintaining and operating the Surface Water Management System in accordance with the SJRWMD Permit. Declarant reserves, both for Declarant, and for the Owners collectively, and for the Association, the right to grant additional non-exclusive easements over, under, across and through the Common Area, provided that such additional easement grants do not interfere with the effective maintenance and operation of the Surface Water Management System.

**(d) Operation and Maintenance of Surface Water Management System.** It is the responsibility of the Association to operate and maintain the Surface Water Management System. The Association shall effectively operate and maintain the Surface Water Management System in accordance with the SJRWMD Permit. This shall include the filling of monitoring reports on a quarterly basis during the first year, and semi-annually thereafter, for a period of three (3) years and until success criteria are met for two (2) consecutive monitoring intervals.

**(e) Amendment of Declaration.** Notwithstanding Article XI of these Articles, or any other amendment provision, any amendment (including a termination) of these Articles that would directly and adversely affect the operation and maintenance of the Surface Water Management System in a material respect must have the prior approval of the SJRWMD. Any amendment proposed to these Articles that would affect the Surface Water Management System, conservation areas, or water management portions of common areas shall be submitted to SJRWMD for review prior to finalization of the amendment. SJRWMD shall determine if the proposed amendment will require a modification of the environmental resource or Surface Water Management Permit. If a permit modification is necessary, the modification must be approved by SJRWMD prior to the amendment of these Articles or its effectiveness.

**(f) Disposition.** The Association shall not dissolve or dispose of any Common Area or common open space or improvements therein except to an organization concerned with and designed for the continued maintenance in accordance with the requirements of the original development approval.

**(g) Enforcement.** SJRWMD shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in these Articles that relate to the maintenance, operation, and repair of the surface water or storm water management system.

**(h) Swale Maintenance.** The Developer has constructed a drainage swale upon each lot for the purpose of managing and containing the flow of excess surface water, if any, found upon such lot from time to time. Each lot owner, including builders, shall be responsible for the maintenance, operation, and repair of the swales on the lot. Maintenance, operation, and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance, or other storm water management capabilities as permitted by SJRWMD. Filling, excavating, constructing fences, or otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the drainage swale shall be authorized and any damage to any drainage swale, whether caused by natural or human-induced phenomena, shall be repaired and the drainage swale returned to its former condition as soon as possible by the Owner(s) of the Lot(s) upon which the drainage swale is located.

**(i) Alteration of Drainage Flow.** No person shall alter the drainage flow of the surface water or storm water management system, including buffer areas or swales, without the prior written approval of SJRWMD.

**(j) Submission and Confirmation.** Prior to the commencement of construction on any Lot within Huntington Place, the Lot Owner shall submit information, including plats and appropriate calculations, demonstrating conformance with the Environmental Resource Permit to SJRWMD. Construction shall not commence until the Lot Owner receives written confirmation from SJRWMD that the plans are in conformity with the conditions of the said District Permit.

**Section 7. Lift Station.** The Property and all of the Lots within the Property shall be serviced by a waste water sewer Lift Station. The Lift Station includes a structure housing (wet well), pumps, piping, valves and auxiliary equipment for the collection of waste water sewage from the community's sanitary sewer collection system.

The Lift Station will not be dedicated to Indian River County, and the Association shall be responsible for its preservation and maintenance. On an annual basis, the Association shall contract with a private maintenance company to perform periodic inspections of the Lift Station and to provide a response in emergency situations, should the Lift Station fail to function or should the Lift Station be damaged. The Association shall also procure insurance coverage for the Lift Station to pay for loss or damage to the Lift Station equal to its full replacement cost and satisfactory to the Indian River County Utilities Department. Also, on an annual basis, the Association shall submit evidence of such insurance to the Indian River County Utilities Department.



**Section 8. Animal Waste.** Animal Waste shall be disposed of in a manner consistent with the requirements of the animal waste management plan approved and permitted by SJRWMD, and such plan shall seek to minimize introduction of phosphorus into the Surface Water Management System. All Owners shall have the duty and obligation to comply with the requirements of such plan; the Association shall have the full power and authority to enforce the plan and all Owners' compliance with same, including but not limited to through the imposition of either or both legal and equitable proceedings.

**Section 9. Association Powers Clarified.** Notwithstanding any other term, condition, or provision in these Articles of Incorporation or By-Laws of the Association, the Association shall have and is hereby vested with the following powers, rights, duties, and responsibilities:

- (a) Establish rules and regulations.
- (b) Assess Members and enforce collection of said assessments.
- (c) File suit and be sued.
- (d) Contract for services (if the Association contemplates employing a maintenance company) to provide the services for operation and maintenance.
- (e) The Association shall exist in perpetuity; however, if the Association is dissolved, the property consisting of the Surface Water Management System shall be conveyed to an appropriate agency of local government, as determined by the SJRWMD. If it is not accepted, then the Surface Water Management System must be dedicated to a similar non-profit corporation, as determined and specified by the SJRWMD.
- (f) Operate and maintain the Surface Water Management System.
- (g) Any proposed amendment to the governing documents, which would affect the Surface Water Management System (including environmental conservation areas and the water management portions of the common areas) must be submitted to the District for a determination of whether the amendment necessitates a modification of the Surface Water Management Permit. If a modification is necessary, the District will so advise the permittee.
- (h) If wetland mitigation monitoring will be required and the operational entity will be responsible to carry out this obligation, the Association shall complete the task successfully, including meeting including all conditions associated with mitigation maintenance and monitoring.
- (i) The Surface Water Management Permit and its conditions shall be attached hereto as an exhibit. The Registered Agent for the Association shall

maintain copies of all further permitting actions for the benefit of the Association.

**Section 10. Monitoring and Maintenance.** Monitoring and maintenance of the mitigation area, as described in SJRWMD Permit, shall be the responsibility of the Association. The Association must successfully complete the mitigation and satisfy Permit conditions. The success criteria are described in the Permit, which is attached hereto as EXHIBIT "B."

**Section 11. Environmental Resource or Surface Water Management Permit Attached.** The Environmental Resource or Surface Water Management Permit is made a part of these Articles. Copies of the Permit and any future permit actions of SJRWMD are and shall be maintained by the Registered Agent of the Association for the benefit of the Association.

**Section 12. Conservation Easements.** The following activities are prohibited in or on the Conservation Easement described on the Plat:

- (a) Construction or placing of buildings, roads, signs, billboards, or other advertising, utilities, or other structures on or above the ground;
- (b) Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;
- (c) Removal or destruction of trees, shrubs, or other vegetation, except for the removal of exotic vegetation in accordance with a SJRWMD approved maintenance plan;
- (d) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such a manner as to affect the surface;
- (e) Surface use except for purposes that permit the land or water area to remain in its natural condition;
- (f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation, including but not limited to, ditching, diking, and fencing;
- (g) Acts or uses detrimental to such aforementioned retention of land or water areas;
- (h) Acts or uses within SJRWMD's regulatory jurisdiction which are detrimental to the preservation of any features or aspects of the Property having historical or archaeological significance.

**ARTICLE XI. PRIORITY**

In the event of conflict between these Articles of Incorporation and the Declaration, the Declaration shall control. In the event of conflict between these Articles of Incorporation and the By-Laws of the Association, these Articles of Incorporation shall control.

**ARTICLE XII. INCORPORATOR**


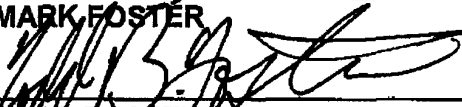
The name and street address of the incorporator to the original Articles of Incorporation are as follows:

**ROSSWAY MOORE & TAYLOR**  
c/o J. Atwood Taylor, III  
5070 N. Highway A-1-A, Suite 200  
Vero Beach, Florida 32963.

In the event of a conflict by and between the Articles of Incorporation filed on November 22, 2004 and these Restated Articles of Incorporation, these Restated Articles of Incorporation shall control.

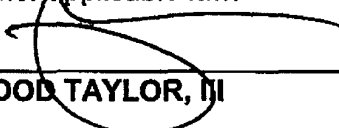
**IN WITNESS WHEREOF**, the undersigned have hereunto set their respective hands and seals on this 20<sup>th</sup> day of March, 2006.

**"DIRECTORS"**

  
\_\_\_\_\_  
MARK FOSTER  
  
\_\_\_\_\_  
TODD FOSTER

**ACCEPTANCE OF REGISTERED AGENT DESIGNATED  
IN ARTICLES OF INCORPORATION**

**J. ATWOOD TAYLOR, III**, whose address is as follows: 5070 North Highway A-1-A, Suite 200, Vero Beach, Florida 32963, which is the same address as set forth in Article IV hereof, having been designated as the Registered Agent in the above and foregoing Articles, is familiar with and accepts the obligations of the position of Registered Agent under Section 607.0505, *Florida Statutes*, and other applicable law.

  
\_\_\_\_\_  
J. ATWOOD TAYLOR, III

Date: March 21, 2006

**EXHIBIT "A"**

Tract 1 and the East 30.38 acres of Tract 2, Section 17, Township 32 South, Range 39 East; according to the last general plat of INDIAN RIVER FARMS COMPANY, filed in the Office of the Clerk of the Circuit Court of St. Lucie County, Florida, in Plat Book 2, Page 25; said land now lying and being in Indian River County, Florida.

# State of Florida



## Department of State

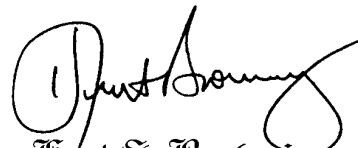
I certify the attached is a true and correct copy of the Articles of Amendment, filed on January 3, 2007, to Articles of Incorporation for HUNTINGTON PLACE PROPERTY OWNERS' ASSOCIATION, INC., a Florida corporation, as shown by the records of this office.

The document number of this corporation is N04000011079.

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Third day of January, 2007



CR2EO22 (01-07)

  
Kurt S. Bradening  
Secretary of State

**SECOND ARTICLES OF AMENDMENT  
OF  
HUNTINGTON PLACE PROPERTY OWNERS' ASSOCIATION, INC.**

**WHEREAS**, it is in the best interest of the Corporation, whose name is **HUNTINGTON PLACE PROPERTY OWNERS' ASSOCIATION, INC.**, a Florida not-for-profit corporation ("Corporation"), to amend its Articles of Incorporation, as previously amended and restated; and

**WHEREAS**, after executing a unanimous consent in lieu of a meeting and approving the adoption of these resolutions, Articles of Amendment must be filed; and

**WHEREAS**, the text of the amendments is set forth below.

**BE IT RESOLVED**, therefore, that the Articles of Incorporation, as previously amended and restated, are hereby modified and amended, as follows:

Article VI of the Articles of Incorporation in its present form is hereby deleted in its entirety and the following is substituted in its place and stead:

The Association shall have two (2) classes of voting membership:

**Class A.** Class A members shall be all Owners, other than the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any single Lot.

**Class B.** The Class B member shall be the Declarant, as defined in the Declaration, and shall be entitled to 7.45 votes for each Lot owned.

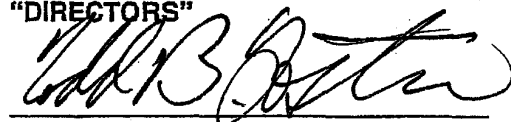
Notwithstanding the foregoing, the provisions of this Article are subject to Section 720.3075(1)(c), *Florida Statutes*, including as the same may be amended from time to time.

Pursuant to Section 617.1006, *Florida Statutes*, there exist at present no Members required or permitted to vote in connection with the foregoing amendments.\*

**IN WITNESS WHEREOF**, the undersigned, being the sole directors, have affixed their signatures below and have caused these presents to be executed on the date set forth below.

\*The amendments  
were adopted on  
December 7, 2006.

**"DIRECTORS"**

  
\_\_\_\_\_  
**TODD FOSTER**

  
\_\_\_\_\_  
**MARK FOSTER**

Date: December 7<sup>th</sup>, 2006

# COPY

**UNANIMOUS CONSENT IN LIEU OF MEETING  
AND RESOLUTION OF THE BOARD OF  
DIRECTORS OF  
HUNTINGTON PLACE PROPERTY OWNERS' ASSOCIATION, INC.**

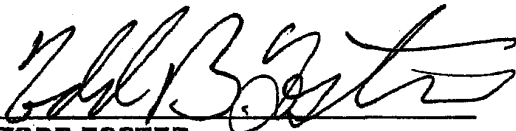
WHEREAS, the below named individuals, being all of the members of the Board of Directors of the Corporation, desire to effect certain changes to the Articles of Incorporation of the Corporation; and

WHEREAS, upon execution of this unanimous consent in lieu of a meeting and approving the adoption of these resolutions, the below set forth resolution shall be deemed adopted.

BE IT RESOLVED that the Articles of Incorporation of the Corporation shall be amended in the manner as set forth on the draft version of the Second Articles of Amendment attached hereto as EXHIBIT "A", and the said Second Articles of Amendment in the form attached hereto as EXHIBIT "A" shall be executed and filed at the earliest opportunity.

IN WITNESS WHEREOF, the undersigned have affixed their hands and seals this 7<sup>th</sup> day of December, 2006.

"DIRECTORS"

  
\_\_\_\_\_  
TODD FOSTER

  
\_\_\_\_\_  
MARK FOSTER

EXHIBIT "A"

**SECOND ARTICLES OF AMENDMENT  
OF  
HUNTINGTON PLACE PROPERTY OWNERS' ASSOCIATION, INC.**

**WHEREAS**, it is in the best interest of the Corporation, whose name is **HUNTINGTON PLACE PROPERTY OWNERS' ASSOCIATION, INC.**, a Florida not-for-profit corporation ("Corporation"), to amend its Articles of Incorporation, as previously amended and restated; and

**WHEREAS**, after executing a unanimous consent in lieu of a meeting and approving the adoption of these resolutions, Articles of Amendment must be filed; and

**WHEREAS**, the text of the amendments is set forth below.

**BE IT RESOLVED**, therefore, that the Articles of Incorporation, as previously amended and restated, are hereby modified and amended, as follows:

Article VI of the Articles of Incorporation in its present form is hereby deleted in its entirety and the following is substituted in its place and stead:

The Association shall have two (2) classes of voting membership:

**Class A.** Class A members shall be all Owners, other than the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any single Lot.

**Class B.** The Class B member shall be the Declarant, as defined in the Declaration, and shall be entitled to 7.45 votes for each Lot owned.

Notwithstanding the foregoing, the provisions of this Article are subject to Section 720.3075(1)(c), *Florida Statutes*, including as the same may be amended from time to time.

Pursuant to Section 617.1006, *Florida Statutes*, there exist at present no Members required or permitted to vote in connection with the foregoing amendments.

**IN WITNESS WHEREOF**, the undersigned, being the sole directors, have affixed their signatures below and have caused these presents to be executed on the date set forth below.

**"DIRECTORS"**

\_\_\_\_\_  
**TODD FOSTER**

\_\_\_\_\_  
**MARK FOSTER**

Date: December \_\_\_\_, 2006



**BY-LAWS**  
**OF**  
**HUNTINGTON PLACE**  
**PROPERTY OWNERS' ASSOCIATION, INC.**

**ARTICLE I**  
**OFFICES**

**Section 1.** The registered office of the corporation (hereinafter referred to as either the "corporation" or as the "Association") in the State of Florida shall be located in the City of Vero Beach, County of Indian River. The corporation may have such other offices, either within or without the State of Florida as the Board of Directors may designate or as the business of the corporation may from time to time require.

**ARTICLE II**  
**DEFINITIONS**

**Section 1. "Architectural Control Board"** (hereinafter referred to as either the "ARB" or the "Committee") shall mean and refer to a board of members initially appointed by the Declarant and subsequently appointed by the Board of Directors of the Association for the primary purpose of assuring that all Owners of Lots improve and maintain the said Lots and all structures located thereon in conformity with restrictions, covenants and architectural requirements described herein and in any related documents created by Declarant.

**Section 2. "Association"** shall mean and refer to **HUNTINGTON PLACE PROPERTY OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation**, its successors and assigns.

**Section 3. "Common Area"** shall mean all of the portions of the Property now or hereafter owned by the Association for the common use and enjoyment of each Owner, including but not limited to the Wetland Preserve Areas and Wetland Buffer Areas and Wetland Buffer Easements, if any, as depicted on the Plat. The Common Area to be owned ultimately by the Association is as set forth on the Plat, and includes all property set forth on the Plat of Huntington Place Subdivision, less and except the individual Lots shown thereon and shall further include all other portions of the Property not a part of the individual Lots. The Property, as described herein and to which these By-Laws apply, is referred to herein as "Huntington Place."

**Section 4. "Declarant"** shall mean and refer to **FOSTER I.R.C., LLC, a California limited liability company**, its successors and assigns.

**Section 5. "Declaration"** shall mean the Declaration of Covenants, Conditions, and Restrictions of Huntington Place recorded in and among the Public Records of Indian River County, Florida.

**Section 6. "Easements"** shall mean that portion of the Property including Lots or portions thereof, which have heretofore or which may hereafter be set aside by the Declarant for the limited

or common use of the Declarant, Owners, their invitees, guests, successors or assigns for ingress, egress, utilities, water sewer, lighting, drainage, or otherwise and for all purposes related to the Huntington Place or as may be indicated on the Plat.

**Section 7. "Huntington Place Property Owners' Association, Inc." or "Association"** shall mean and refer to Huntington Place Property Owners' Association, Inc., a Florida not-for-profit corporation, which corporation has been formed for the primary purpose of enforcing the covenants, conditions, restrictions and limitations contained herein and whose membership shall be comprised of all Owners of the Lots in Huntington Place. These By-Laws apply to the Association.

**Section 8. "Lot"** shall mean a portion of the Property intended for any type of separate, independent ownership and single family use. The Lots are described in the Declaration and on the Plat.

**Section 9. "Member" or "member"** shall mean any Owner who is a member of the Association. All Owners are and shall be required to be members of the Association.

**Section 10. "Owner" or "owner"** shall mean and refer to the record owner, whether one (1) or more persons or entities, of any Lot which is part of the Property but excluding any party holding the fee simple title merely as security for the performance of an obligation. Owner shall include Declarant as to each and every Lot owned by Declarant.

**Section 11. "Plat"** shall mean the Plat of Huntington Place Subdivision recorded in the Public Records of Indian River County, Florida.

**Section 12. "Property"** shall mean and refer to the real property described on EXHIBIT "A" attached hereto and incorporated herein by reference.

**Section 13. "Structure"** shall mean any thing or object (other than trees, shrubbery and other landscaping) the placement of which upon any Lot may affect the appearance of such Lot including but not limited to any building or part thereof, garage, porch, balcony, shed, greenhouse, bathhouse, barbecue pit, patio, swimming pool, television or radio antenna, clotheslines, fence, curbing, paving, wall, recreational facilities, lawn decorative objects including but not limited to statues and tables, living quarters of any nature or any other temporary or permanent improvements to such Lot and any excavation, fill, ditch, dune or other thing or device which affects or alters the natural flow of surface water from or across any Lot or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Lot.

**Section 14. "Roadways"** shall mean those private Roadways depicted on the Plat of the subdivision. Said Roadways shall be maintained and preserved collectively by all of the Owners pursuant to Article V of the Declaration.

**Section 15. "Subdivision" or "community"** shall mean Huntington Place Subdivision, as described in and on the Plat.

**Section 16. "Surface Water Management System" or "Storm Water Management System" or "system"** shall mean a system which is designated and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding,

overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.

**Section 17. "Wet Well"** shall mean the below grade compartments of a pumping station into which the liquid flows and from which the pumps draw suction.

Definitions of relevant terms for these By-Laws are also found in the Declaration. In the event of an inconsistency, the Declaration definition shall control and govern.

### **ARTICLE III MEETINGS OF MEMBERS**

**Section 1. Annual Meeting:** The annual meeting of the members of this corporation shall be held no later than the fifteenth (15<sup>th</sup>) day of the month of February of each year. The annual meeting of the members for any year shall be held no later than thirteen months after the last preceding annual meeting of the members. Business transacted at the annual meeting shall include the election of directors of the corporation.

**Section 2. Special Meetings:** Special meetings of the members shall be held when directed by the President, the Board of Directors, or when requested in writing by the three-tenths (3/10ths) of the total voting interests of those entitled to vote. A meeting requested by members shall be called for a date not less than fourteen (14) nor more than sixty (60) days after the request is made, unless the members requesting the meeting designate a later date. The call for the meeting shall be issued by the Secretary, unless the President, Board of Directors, or members requesting the meeting shall designate another person to do so.

**Section 3. Place:** Meetings of members may be held within or without the State of Florida. If no designation is made, the place of the meeting shall be the registered office of the corporation.

**Section 4. Notice:** Written notice stating the place, date, 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 not less than fourteen (14) nor more than sixty (60) days before 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 to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the books of the corporation, with postage thereon prepaid. The corporation shall maintain a record of all members.

**Section 5. Notice of Adjourned Meetings:** When a meeting is adjourned to another place or time, it shall not be necessary to give any notice of the adjourned meeting if the place and time to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and at the adjourned meeting any business may be transacted that might have been transacted on the original date of the meeting. If, however, after the adjournment the Board of Directors fixes a new record date for the adjourned meeting, a notice of the adjourned meeting shall be given as provided in this section to each member of record on the new record date entitled to vote at such meeting.

**Section 6. Closing of Corporate Books and Fixing Record Date:** For the purpose of determining members entitled to notice of or to vote at any meeting of member or any adjournment thereof, or in order to make a determination of members for any other purpose, the Board of

Directors may provide that the corporate membership books shall be closed for a stated period but not to exceed, in any case, sixty (60) days. If the corporate membership books shall be closed for the purpose of determining members entitled to notice of or to vote at a meeting of members, such books shall be closed for at least ten (10) days immediately preceding such meeting.

In lieu of closing the corporate membership books, the Board of Directors may fix in advance a date as the record for any determination of members, such date in any case to be not more than sixty (60) days and, in case of a meeting of members, not less than ten (10) days prior to the date on which the particular action requiring such determination of members is to be taken.

When a determination of members entitled to vote at any meeting of members has been made as provided in this section, such determination shall apply to any adjournment thereof, unless the Board of Directors fixes a new record date for the adjourned meeting.

**Section 7. Voting Record:** The officers or agent having charge of the corporate record books for voting interests of the corporation shall at least ten (10) days before each meeting of the members make a complete list of the members entitled to vote at such meetings or any adjournment thereof, with the address of and the number and class. The list for a period of ten (10) days prior to such meeting shall be kept on file at the registered office of the corporation at the principal place of business of the corporation or at the office of the transfer agent or registrar of the corporation; and any member shall be entitled to inspect the list at any time during usual business hours and in accordance with applicable law. The list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any member at any time during the meeting.

If the requirements of this section have not been complied with substantially, the meeting on demand of any member in person or by proxy shall be adjourned until the requirements are met. If no such demand is made, failure to comply with the requirements of this section shall not affect the validity of any action taken at such meeting.

**Section 8. Member Quorum and Voting:** Twenty (20%) percent of the voting interests entitled to vote represented in person or by proxy shall constitute a quorum at a meeting of members.

If a quorum is present, the affirmative vote of the majority of the voting interests represented at the meeting and entitled to vote on the subject matter shall be and be deemed the act of the members unless otherwise provided by law.

After a quorum has been established at a members' meeting, the subsequent withdrawal of members, so as to reduce the number of members entitled to vote 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.

**Section 9. Voting of Voting Interests:** Each member entitled to vote in accordance with the terms and provisions of the Declaration. The vote for directors shall be by ballot. All other requirements as to voting shall be in accordance with the laws of the State of Florida.

Voting shall be based upon voting interests and percentages thereof, as defined in the Declaration. By way of example but not limitation, if the Declarant owns seventeen (17) Lots and one hundred twenty-four (124) Lots have been sold and conveyed to individual purchasers, the total voting interests equal two hundred fifty and sixty-five one-hundredths (250.65); i.e., one hundred

twenty-six and sixty-five one-hundredths (126.65) votes for the Declarant and one (1) vote for each of the individual Lot Owners, respectively, pursuant to Article IV of the Declaration. Thus, under this example, a majority of the voting interests would be vested in the Declarant (126.65 versus 124). This provision is subject to applicable provisions in the Declaration and to Section 720.3075(1)(c), *Florida Statutes*.

**Section 10. Proxies:** The use of proxies shall be governed by Section 720.306, *Florida Statutes*.

Every proxy must be signed by the member or his attorney-in-fact. No proxy shall be valid after the expiration of ninety (90) days from the date thereof. Every proxy shall be revocable at the pleasure of the member executing it, except as otherwise provided by law.

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 corporate officer responsible for maintaining the list of members.

If a proxy for the same voting interest confers authority upon two (2) or more persons and does not otherwise provide, a majority of them present at the meeting, or if only one is present then that one (1), may exercise all the powers conferred by the proxy; but if the proxy holders present at the meeting are equally divided as to the right and manner of voting in any particular case, the voting of such voting interests shall be prorated.

If a proxy provides, any proxy holder may appoint in writing a substitute to act in his place.

## ARTICLE IV DIRECTORS

**Section 1. Function:** All corporate powers shall be exercised by or under the authority of, and the business and affairs of this corporation shall be managed under the direction of the Board of Directors. A director shall perform such director's duties in such capacity, including such director's duties as a member of any committee, including but not limited to the Architectural Review Board, of the Board of Directors upon which such director may serve, in good faith, in a manner such director reasonably believes to be in the best interest of the corporation, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all of its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting at which such statement is requested in writing by three-tenths (3/10ths) of the Class A members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully or otherwise provided in the Declaration, to:

(1) fix the amount of the annual assessment upon each Lot in advance in of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto in advance of each annual assessment collection period; annual assessments shall be collected and due on a quarterly basis; and

(3) foreclose the lien against any Lot for which assessments are not paid, as specified in the Declaration, or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue upon demand by any person, a certificate setting forth whether any assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees who have fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Area to be maintained.

**Section 2. Qualification:** Directors need not be residents of this state or members of this corporation.

**Section 3. Compensation:** The Board of Directors shall serve without compensation.

**Section 4. Duties of Director:** A Director shall perform his duties, including in his capacity as a member of any committee of the Board of Directors upon which he may serve in good faith, in a manner he reasonably believes to be in the best interests of the corporation, and with such care as an ordinarily prudent person in a like position would use under similar circumstances.

In performing his duties, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

(a) one (1) or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented,

(b) legal counsel, public accountants, or other persons as to matters which the director reasonably believes to be within such person's professional or expert competence, or

(c) a committee of the Board of Directors upon which he does not serve, duly designated in accordance with a provision of the Articles of Incorporation or the By-Laws, as to matters within its designated authority, which committee the director reasonably believes to merit confidence.

A director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause such reliance described above to be unwarranted.

A person who performs his duties in compliance with this section shall have no liability by reason of being or having been a director of the corporation.

**Section 5. Presumption of Assent:** A director of the corporation who is present at a meeting of its directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless the record of such meeting reflects that said director voted against such action or abstained from voting in respect thereto because of an asserted conflict of interest.

**Section 6. Number:** This corporation shall be managed initially by a Board of Directors of two (2) directors. After turnover, as defined in the Declaration, the number of directors may be increased to a maximum of seven (7) members (and no even number, thereafter, is permissible) or decreased to no fewer than three (3) members from time to time by amendment to these By-Laws or by vote of a majority of the members; but no decrease shall have the effect of shortening the terms of an incumbent director.

**Section 7. Election and Term:** At the first annual meeting of members and at each annual meeting thereafter the members shall elect directors to hold office until the next succeeding annual meeting, or until successors shall have been elected and qualified or until the earlier resignation, removal from office or death. Election and voting procedures shall be governed by Section 720.306, *Florida Statutes*.

Election to the Board of Directors shall be by secret written ballot. At such election the members may cast, in respect to each vacancy, as many votes as they are entitled to exercise hereunder. The director shall be elected by the affirmative vote of the holders of a majority of the voting interests represented at a meeting at which a quorum is present. Cumulative voting is not permitted.

**Section 8. Vacancies:** Any vacancy occurring in the Board of Directors, including any vacancy created by reason of an increase in the number of directors, may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum. A director elected to fill a vacancy shall hold office only until the next election of directors by the members.

**Section 9. Removal of Directors:** At a meeting of members called expressly for that purpose, any director or the entire Board of Directors may be removed with or without cause by a vote of the holders of a majority of the voting interests then entitled to vote at an election of directors.

**Section 10. Quorum and Voting:** A majority of the number of directors fixed by these By-Laws shall constitute a quorum of the transaction of business. The act of the majority of the directors present at meeting at which a quorum is present shall be the act of the Board of Directors.

**Section 11. Executive and Other Committees:** The Directors by resolution adopted by a majority of the full Board of Directors may designate from among its members an Executive Committee and other committees; and each such committee shall serve at the pleasure of the Board of Directors with the authority contained in the *Florida Statutes*. The Board of Directors by resolution may designate one (1) or more directors as alternate members of any such committee, who may act in the place and stead of any absent member or members at any meeting of such committee.

**Section 12. Regular Meetings:** A regular meeting of the Directors shall be held without other or further notice than this by-law, immediately after and at the same place as the annual meeting of the members, including for the purposes of electing officers.

**Section 13. Special Meetings:** Special Meetings of the Directors may be called by the President or by any two (2) directors. The person or persons authorized to call special meetings of the directors may fix the place for holding any special meeting of the directors called by said person or persons. Members of the Board of Directors may participate in a meeting of such Board of Directors by means of a conference telephone or similar communications equipment by means of which all person participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

**Section 14. Notice:** Except in the event of an emergency, written notice of the time and place of Special Meetings of Directors shall be given to each director either by personal delivery or by mail, telegram, or cablegram at least forty-eight (48) hours prior to the meeting. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting and waiver of any and all objections to the place of the meeting, any objection to the transaction of business because the meeting is not lawfully called or convened. The business to be transacted at or the purpose of any Special Meeting of the directors shall be specified in the written waiver of notice.

**Section 15. Action Without a Meeting:** Any action required to be taken at a meeting of the directors of the corporation, or any action which may be taken at a meeting of the directors or a committee thereof, may be taken without a meeting if a consent in writing or a written action in lieu of a meeting, setting forth the action so to be taken, signed by all of the directors, or all the members of the committee, as the case may be, is filed in the minutes of the proceedings of the Board of Directors or of the committee. Such consent shall have the same effect as a unanimous vote.

## ARTICLE V OFFICERS

**Section 1. Officers:** The officers of this corporation shall consist of a president, vice president, secretary and treasurer, each of whom shall be elected by the Board of Directors. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the Board of Directors from time to time. Any two (2) or more offices may be held by the same person. The directors shall elect officers of the corporation annually at the meeting of the directors held after each annual meeting of the members. Each officer shall hold office until his successor shall have been duly elected and qualified or until his death or resignation or until he shall have been removed in the manner provided herein. A director need not hold an office; an officer need not be a director.

**Section 2. Duties of Officers:** The officers of this corporation shall have the following duties:

**THE PRESIDENT** shall be the chief executive officer of the corporation, shall have general active management of the business and affairs of the corporation subject to the directions of the Board of Directors, and shall preside at all meetings of the members and Board of Directors.

**THE VICE PRESIDENT** shall have the same responsibilities of the President, exercisable only in the absence of the President. The Board of Directors may name as many Vice Presidents as it deems necessary or expedient.

**THE SECRETARY** shall have custody of, and maintain, all of the corporate records except the financial records, shall record the minutes of all meetings of the



members and Board of Directors, send all notices of meetings, and perform such other duties as may be prescribed by the Board of Directors or the President.

**THE TREASURER** shall have custody of the corporate funds and financial records, shall keep full and accurate accounts of receipts and disbursements and render accounts thereof at the annual meeting of the members and whenever else required by the board of Directors or the Present, and shall perform such other duties as may be prescribed by the Board of Directors or the President.

**Section 3. Removal:** Any officer or agent elected or appointed by the Directors may be removed by the Directors whenever in the Director's judgment the best interest of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

## **ARTICLE VI BOOKS AND RECORDS**

This corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, Board of Directors and committees of directors upon the terms and conditions provided by law.

## **ARTICLE VII COMMITTEES**

The Association shall appoint an Architectural Control Board, as provided in the Declaration and as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

## **ARTICLE VIII FISCAL YEAR**

The fiscal year of the corporation shall begin on the first (1st) day of the month of January in each year.

## **ARTICLE IX ASSESSMENTS**

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within the time set forth in the Declaration, the assessment shall bear interest from the date of delinquency at the maximum rate allowable 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 property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may waiver or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot.

**ARTICLE X  
CORPORATE SEAL**

The directors shall provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the corporation, state of incorporation, year of incorporation and the words *corporate seal*.

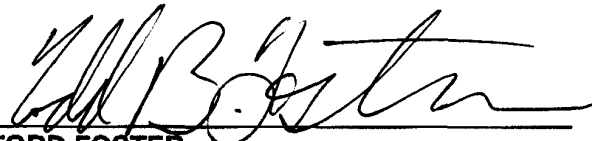
**ARTICLE XI  
AMENDMENT**

**Section 1.** These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of the voting interests of the members present in person or by proxy.

**Section 2.** In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and the Articles or these By-Laws, the Declaration shall control.

**IN WITNESS WHEREOF**, the undersigned directors of the corporation do hereby affix the said directors' hands and seals on the date set forth below thereby evidencing the adoption of the foregoing By-Laws of the corporation.

**"DIRECTORS"**

  
\_\_\_\_\_  
**TODD FOSTER**

  
\_\_\_\_\_  
**MARK FOSTER**

Date: January 8, 2007