

This instrument prepared by:

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**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF MARIANA OAKS PHASE II**

**THIS DECLARATION**, made on the date hereinafter set forth by **MASON CREEK, LLC**, hereinafter referred to as "Declarant".

**W I T N E S S E T H:**

**WHEREAS**, Declarant is the owner of certain property in Leon County, State of Florida, which is more particularly described as:

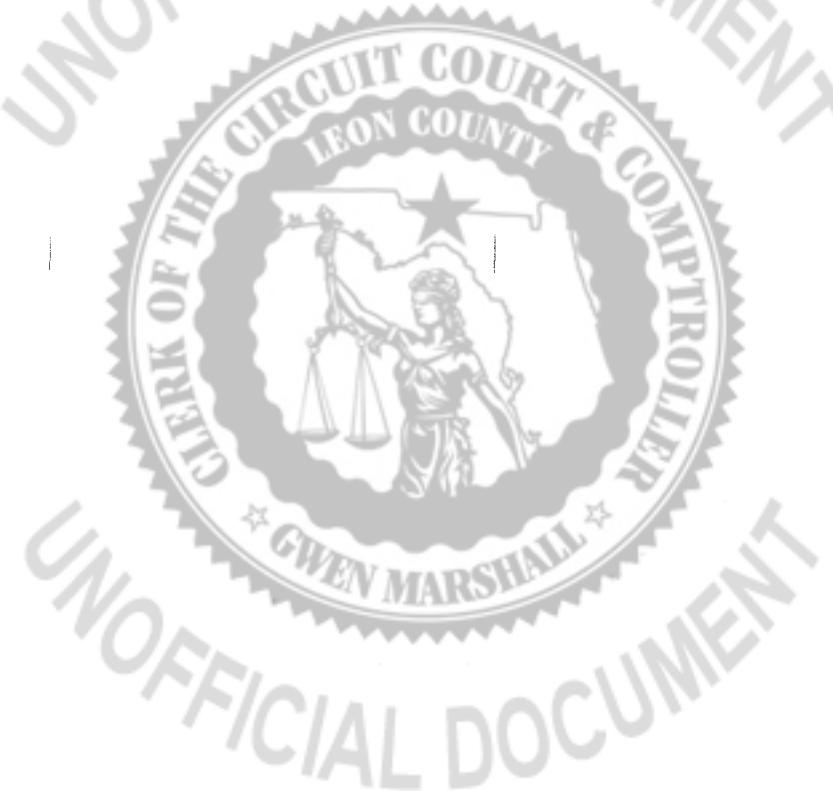
**See Exhibit "A" attached hereto and by reference made a part hereof.**

**NOW, THEREFORE**, Declarant hereby declares that all of the property described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

**ARTICLE I**  
**Definitions**

**Section 1.** "Association" shall mean and refer to **MARIANA OAKS HOMEOWNERS ASSOCIATION, INC.**, its successors and assigns.

**Section 2.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, which is a part of the Properties, including contract sellers, but excluding those having such interest merely for



the performance of an obligation.

**Section 3.** “Properties” shall mean and refer to that certain real property described in Exhibit “A” attached hereto and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**Section 4.** “Lot” shall mean and refer to each numbered lot as depicted on the Plat of Mariana Oaks Phase II Subdivision exclusive of the outparcels and common areas depicted thereon. The Declarant shall have the right to modify and change boundary lines to each Lot as long as Declarant owns the Lot.

**Section 5.** “Common Area” shall mean all real property, if any, (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners, including, but not limited to, the Landscape Buffer. Said real property shall be identified as the common area and Landscape Buffer on the plat.

**Section 6.** “Declarant” shall mean and refer to MASON CREEK, LLC, its successors and assigns.

**Section 7.** “Plat of Mariana Oaks Phase II Subdivision” shall mean and refer to the final plat of Mariana Oaks Phase II Subdivision, a subdivision to be recorded in the Public Records of Leon County, Florida.

## ARTICLE II Property Rights

**Section 1. Reservation.** The Declarant hereby reserves, excepts, imposes, grants and creates non-exclusive perpetual easements to and on behalf of the Declarant, Owners, their grantees, heirs and successors in interest for ingress and egress, utility, drainage and landscape purposes over, across and under the properties depicted as

roadways, drainage easements, stormwater management facilities and utility easements on the Plat of Mariana Oaks Phase II Subdivision.

**Section 2. Owner's Easements 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 the following provisions:

- (a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility, if any, situated upon the Common Area;
- (b) The right of the Association to suspend the voting rights and right to use of the recreational facilities, if any, by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.
- (c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of each class of members has been recorded.

**Section 3. Delegation of Use.** Any Owner may delegate, in accordance with the rules of the Association, his rights of enjoyment to the Common Area and facilities, if any, to the members of his family, his tenants, or contract purchasers who reside on the property.

**ARTICLE III**  
**Membership and Voting Rights**



**Section 1.** Every Owner of a Lot, which is subject to assessment, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, which is subject to assessment.

**Section 2.** The Association shall have two 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 vote for each Lot owned. When more than one person holds an interest in 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 vote be cast with respect to any Lot.

**Class B.** The Class B members shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership exceeds the total votes outstanding in the Class B membership.

**Section 3.** Every Owner of a Lot, at all times, shall be allowed to elect the Association's Board of Directors. The first vote for election of the directors shall be held before more than fifty percent (50%) of the lots have been sold by the Declarant or deeded away by the Declarant.

#### **ARTICLE IV** **Assessments**

**Section 1. Type of Assessments.** In addition to the obligations of Owners set forth elsewhere in this Declaration, there are several types of Assessments for which Owners are liable, as follows:

- (a) Assessments for all Operating Costs.

(b) The Association may levy additional Assessments for any purpose, including without limitation, expenditures for capital improvements for or on Common Area or for reconstructing or replacing such improvements. Assessments pursuant to this paragraph shall be payable in such manner and at such times as determined by the Association, and may be payable in installments extending beyond the fiscal year in which the Assessment is approved.

**Section 2. Designation.** The designation of Assessment type shall be made by the Association and shall be binding upon all Owners. Such designation may be made on the budgets prepared by the Association.

**Section 3. Allocation of Operating Costs.**

(a) For the period until the adoption of the first annual budget, the allocation of Operating Costs shall be as set forth in the initial budget prepared by the Association.

(b) Commencing on the first day of the period covered by an annual budget, and until the adoption of the next annual budget, the Operating Costs shall be allocated so that each Owner shall pay its pro-rata portion based upon a fraction, the numerator of which is one (1) and the denominator is the number of Lots in the subdivision.

(c) In the event the Operating Costs estimate for the year is, after the actual Operating Costs for that period is known, more or less than

the actual costs, then the difference shall, at the election of the Association: (i) be added or subtracted, as the case may be, to the calculation for the next ensuing year; or (ii) be immediately refunded to, or collected from, the Owners.

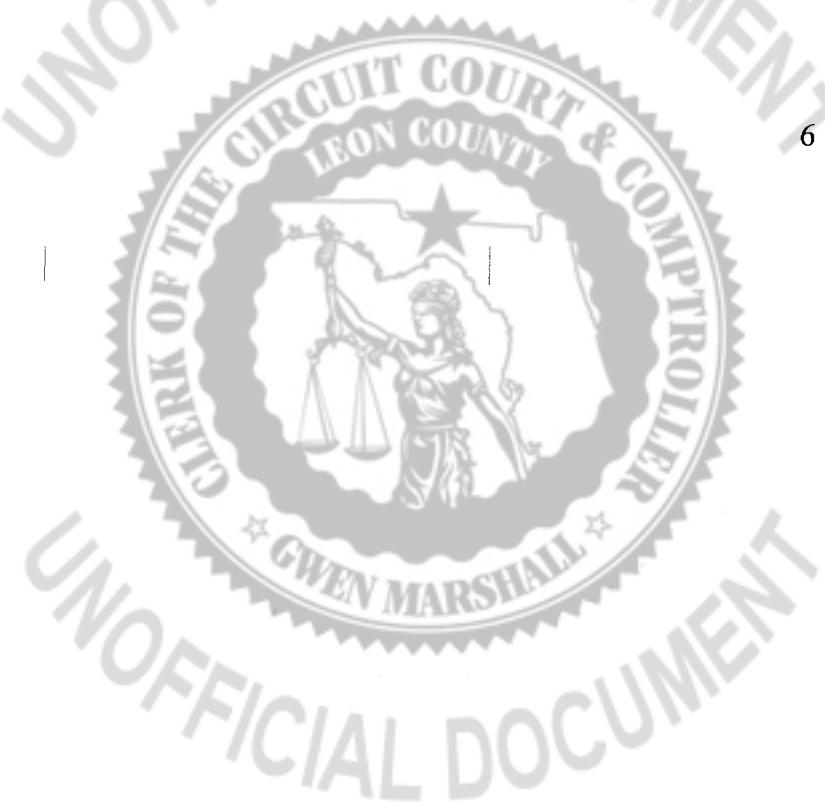
The Association shall have the unequivocal right to collect retroactively any cost, and such Assessment shall relate back to the date that the Assessment could have been made.

**Section 4. General Assessments Allocation.** Except as herein specified to the contrary, Assessments shall be allocated equally to each Owner.

**Section 5. Special Assessment Allocation.** Except as herein specified to the contrary, Special Assessments shall be made against the Owners benefiting from, or subject to, the special service or cost as specified by the Association.

**Section 6. Commencement of First Assessment.** Assessments shall commence, as to each Owner, on the day of the conveyance of title to an Owner. The Assessments in effect at that time shall be adjusted according to the number of months remaining in the Assessment period after such date. Declarant owned Lots shall commence Assessments when more than fifty percent (50%) of the lots have been sold or deeded away by Declarant. For that portion of the Assessment representing the contribution to the reserve account, Declarant shall not commence paying that portion of the Assessment until more than seventy-five percent (75%) of the lots have been sold or deeded away by Declarant.

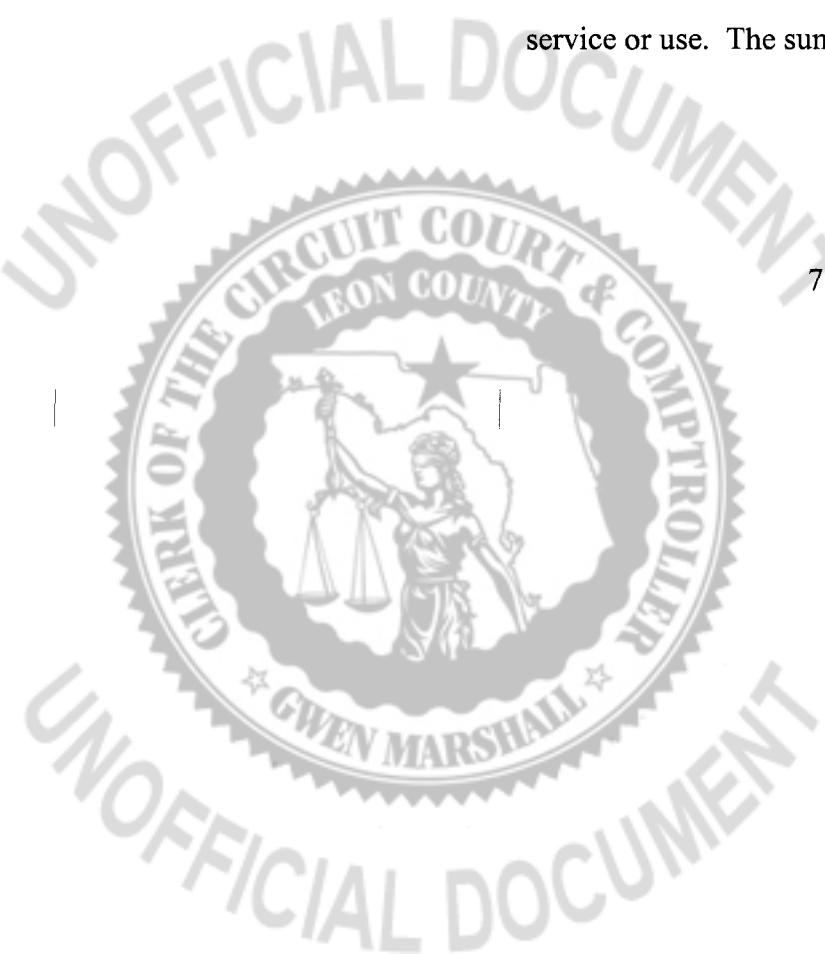
**Section 7. Initial Budgets.** The initial budget prepared by Declarant is adopted as the Association budget for the period of operation until adoption of the first



annual Association Budget. Thereafter, annual budgets shall be prepared and adopted by the Association.

**Section 8. Establishment of Assessments.** Assessments shall be established in accordance with the following procedures:

- (a) Assessments shall be established by the adoption of a projected annual operating budget. Written notice of the amount of, and date of commencement thereof, shall be given to each Owner not less than ten (10) days in advance of the due date of the first installment thereof. Assessments shall be payable annually or at such other more or less frequent times as determined by the Association.
- (b) Special Assessments against the Owners and all other fees, dues and charges, may be established by the Association, and shall be payable at such time as the Association may determine.
- (c) The Association may establish, from time to time, by resolution, rule or regulation, or by delegation to an officer or agent, including a management firm, the power and authority to establish specific fees, dues or charges to be paid by Owners for any special services provided to, or for the benefit of an Owner or Lot, for any special or personal use of the Common Area or to reimburse the Association for the expenses incurred in connection with that service or use. The sums so established shall be payable by the



Owner utilizing the service or facility as determined by the Association or management firm, if any.

- (d) The budget may establish and maintain a reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Area.
- (e) The Association may establish a working capital fund for the operation of the Association. The purpose of this fund is to assure that the Association will have cash available to meet its obligations, unforeseen expenditures, or to acquire additional property, equipment or services deemed necessary or desirable. Amounts paid into the fund are not to be considered as advance payments of regular Assessments.
- (f) The Association shall prepare and maintain a ledger noting Assessments due from each Owner. The ledger shall be kept in the office of the Association, or its designees, and shall be open to inspection by any Owner or Lender upon reasonable notice. Upon demand, there shall be furnished to an Owner a certificate in writing setting forth whether the Assessments owed by that Owner have been paid and/or the amount, which is due as of any date. As to parties other than Owners who, without knowledge or error, rely on the certificate, the certificate shall be conclusive evidence of the amount of any Assessment therein stated.



**Section 9. Payment of Assessments.** Each Owner, by acceptance of title to a Lot, shall be deemed to have covenanted and agreed to pay the following dues, fees, charges and Assessments:

- (a) General Assessments;
- (b) Assessments for capital improvements, emergencies, and/or non-recurring expenses.
- (c) Assessments of any kind for the creation of reasonable reserves or working capital;
- (d) Special Assessments and changes for special services; and
- (e) Assessments and charges incurred in connection with the enforcement of any of the terms and conditions hereof, including reasonable attorney fees and costs.

Each Owner shall pay all taxes and obligations relating to its Lot which, if not paid, could become a lien against the Lot which is superior to the lien for Assessments created by this Declaration.

**Section 10. Creation of the Lien and Personal Obligation.** Each Owner, by acceptance of a deed or instrument of conveyance for the acquisition of title to a Lot, shall be deemed to have covenanted and agreed that the Assessments, and/or other charges and fees set forth herein, together with interest, late fees, costs and reasonable attorneys' (and paralegals') fees (at all levels of proceedings, collection and bankruptcy), shall be a charge and continuing lien in favor of the Association encumbering the Lot and all personal property located thereon owned by the Owner against whom such Assessment is made. The lien is effective from and after recording a Claim of Lien in the



Public Records, stating the description of the Lot, name of the Owner, and the amounts due as of that date. The Claim of Lien shall also cover any additional amounts, which accrue thereafter until satisfied. Each Assessment, charge, fee, together with interest, late fees, costs and reasonable attorneys' fees, etc. shall be the personal obligation of the person who was the Owner of the Lot at the time when the Assessment became due, as well as that persons' heirs, devisees, personal representatives, successors or assigns.

**Section 11. Subordination of the Lien to Mortgage.** The lien for Assessments shall be subordinate to bona fide first mortgages on any Lot if the mortgage is recorded in the public records prior to the Claim of Lien and to the lien of the Declarant set forth in this Declaration. The lien shall not be affected by any sale or transfer of a Lot, except in the event of a sale or transfer of a Lot pursuant to a foreclosure of a bona fide first mortgage, or the lien of the Declarant, in which event, the acquirer of title, its successors and assigns, shall not be liable for Assessments encumbering the Lot or chargeable to the former owner of the Lot which became due prior to such sale or transfer. However, any such unpaid Assessments for which such acquirer of title is not liable may be reallocated and assessed to all Owners (including such acquirer of title) as a part of the Operating Costs. Any sale or transfer pursuant to a foreclosure shall not relieve the Owner from liability for, nor the Lot from the Lien of, any Assessments made thereafter. Nothing herein contained shall be construed as releasing the party liable for any delinquent Assessments from the payment thereof, or the enforcement of collection by means other than foreclosure.

**Section 12. Acceleration.** In the event of a default in the payment of any Assessment, the Association may accelerate the Assessments against that Owner for up to the next ensuing twelve (12) month period.

**Section 13. Non-payment of Assessments.** If any Assessment is not paid within fifteen (15) days after the due date, a late fee of \$25.00, per month, together with interest in an amount equal to 18% (not to exceed the maximum rate allowable by law), per annum, beginning from the due date until paid in full, may be levied by the Association against the Owner. The Association may, at any time thereafter, bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot, or both. The Association shall not be required to bring such an action if it believes that the best interests of the Association would not be served by doing so. There shall be added to the Assessment all costs expended in preserving the priority of the lien and all costs and expenses of collection, including attorneys' (and paralegals) fees, at all levels of proceedings, including collection and bankruptcy. No Owner may waive or otherwise escape liability for Assessments provided for herein by non-use of, or the waiver of the right to use, the Common Area, or abandonment of a Lot.

**Section 14. Collection by Declarant.** If for any reason the Association shall fail or be unable to levy or collect Assessments, then in that event, Declarant shall at all times have the right, but not the obligation: (i) to advance such sums as a loan to the Association to bear interest and to be repaid as hereinafter set forth; and/or (ii) to levy and collect such Assessments by using the remedies available as set forth above, which remedies, including, but not limited to, recovery of attorneys' and paralegals', fees at all

levels including appeals, collections and bankruptcy, shall be deemed assigned to Declarant for such purposes.

**Section 15. Rights to Pay Assessments and Receive Reimbursement.**

The Association, Declarant and any mortgagee of a Lot shall have the right, but not the obligation, jointly and severally, and at their sole option, to pay any Assessments or other charges which are in default and which may or have become a lien or charge against any Lot. If so paid, the party paying the same shall be subrogated to the enforcement rights of the Association with regard to the amounts due. Further, Declarant shall have the right, but not the obligation, at its sole option, to loan funds to the Association and pay items of Operating Costs on behalf of the Association. The entity advancing such sums shall be entitled to immediate reimbursement, on demand, from the Association for such amounts so paid, plus interest thereon at the W.S.J. Prime Rate determined as of the date such payment was due from Owner, plus 2% plus any costs of collection including, but not limited to, reasonable attorneys', (and paralegals') fees at all levels including appeals, collections and bankruptcy.

**ARTICLE V  
Land Use and Building Type**

No Lot shall be used except for residential purposes and such other purposes as may be set forth in this Declaration. No building or other improvement of any type shall be erected, altered, installed, placed or permitted to remain on any Lot other than a detached single family residence and swimming pool as approved by the Architectural Review Board. No above-ground swimming pool shall be approved or allowed. No outbuildings or other structures shall be permitted unless specifically approved in the discretion of the Architectural Review Board. All builders must be approved by the

Architectural Review Board. Moreover, all structures, improvements, and materials utilized therein must conform with the design scheme and aesthetic scheme contemplated by Declarant. These schemes are contained in the Architectural Design Guidelines possessed by Declarant and the Association and available for review upon request.

#### **ARTICLE VI Dwelling Size**

No dwelling shall be permitted on any lot unless it is at least 2,000 square feet heated and cooled. No dwelling shall exceed two and one-half stories in height.

#### **ARTICLE VII Building, Driveway and Fence Location and Roof Pitch**

Building locations shall be approved by the Architectural Review Board, provided, however, no building shall be located on any Lot less than twenty-five (25') from the front Lot line, seven and one-half feet (7.5') from the side Lot lines(s), twenty-five feet (25') for the rear Lot line, or fifteen feet (15') from a side corner Lot line.

No driveway shall be located nearer than one (1) foot to an interior Lot line. No fence or wall shall exceed six (6) feet in height. No fence or wall shall be located nearer than two (2) inches to a Lot line. The location and design of any fence must be approved by the Architectural Review Board. The primary and front entrance of each detached single-family residence shall face the front Lot line. In the event a Lot shall have frontage on more than one street, the Architectural Review Board shall determine and declare in its sole discretion, which Lot boundary is the front Lot line. The roof of any building shall have a minimum roof pitch of 6/12. The Architectural Review Board may, in its sole discretion, grant variances to the restrictions provided for in this Article.

## **ARTICLE VIII** **Subdivision of Lot**

No Lot shall be re-subdivided. This provision shall not, however, be construed to prohibit any Owner from conveying any part of his Lot to the Owner of an adjacent Lot, provided that the Declarant has approved such conveyance in writing. Such approval shall be in the sole discretion of the Declarant. Declarant reserves the right to re-subdivide any Lot or change the boundaries of any Lot until conveyed by the Declarant.

## **ARTICLE IX** **Garages**

Each dwelling shall have a functional garage attached thereto or included within an accessory building with a capacity of no less than two (2) and no more than four (4) automobiles. No carport shall be allowed on any Lot. The Owner of each Lot shall make all reasonable efforts to cause the garage door to be kept closed at all times except when entering or exiting the garage.

## **ARTICLE X** **Temporary Structure**

No structure of a temporary character, outbuilding or vehicle, including but not limited to, recreational vehicle, motor vehicle, mobile home, trailer, basement, shack, tent, garage, barn or storage building shall be used on any Lot at any time as a residence either temporarily or permanently.

## **ARTICLE XI** **Nuisances**

No noxious or offensive activity shall be carried on upon any Lot or Common Area, nor shall anything be done thereon which may be or may become any annoyance or nuisance to the neighborhood.



## **ARTICLE XII SIGNS**

No sign of any kind shall be displayed to the public view on any Lot except one professionally lettered sign of not more than four (4) square feet to advertise the property for sale or lease, except signs used by the Declarant to advertise Lots for sale. Notwithstanding the foregoing, the Declarant shall have the right to use such signs as the Declarant deems appropriate to promote the sale of improved and unimproved Lots. Any sign shall be mounted on a free-standing post or sign holder.

## **ARTICLE XIII Animals, Livestock, Poultry and Crops**

No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, provided that domestic dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose and provided that not more than two (2) such pets shall be kept on any Lot without the written approval of the Architectural Review Board. The Owner shall maintain all such pets and pens and structures intended for their use, in a clean and sanitary manner and in a manner, which does not create a nuisance to other Owners. In furtherance and not in limitation of the foregoing, the Owners of pets shall be responsible for removing from Lots, roadways, easements and Common Areas, excrement from their pets. No pen, doghouse or other structure intended for any animal shall be constructed or allowed to remain on any Lots unless approved by the Architectural Review Board. All pets shall at all times be confined within the Owner's dwelling, fenced yard or approved structure; securely on a leash; or under strict voice control. There shall be no planting or maintenance of crops,

vegetables or ornamental plants except for approved landscaping and except for domestic purposes. No garden area for crops or vegetables shall be visible from any street.

#### **ARTICLE XIV** **Recreational Vehicles, Activities and Commercial Vehicles**

No boat, trailer, motorcycle, motor home, camper, plane, recreational vehicle or commercial van or truck may be parked or stored on any street or any Lot except within an enclosed garage. The pursuit of hobbies or activities, including, but not limited to, work on vehicles or other mechanical devices and woodworking, which tend to result in disorderly, unsightly or unkempt condition, shall not be pursued nor undertaken except within an enclosed garage.

#### **ARTICLE XV** **Mail Boxes**

No mail box or paper box or other receptacle of any kind for use in the delivery of mail, newspaper, magazines or similar material shall be erected or located on the Properties unless and until the size, location and type of material for said boxes or receptacles shall have been approved by the Architectural Review Board.

#### **ARTICLE XVI** **Exterior Maintenance**

No weeds, underbrush or other unsightly growth shall be permitted to grow and remain on any Lot, and no refuse, trash or other unsightly material shall be placed or permitted to remain on any Lot. Each Owner shall maintain the landscaping, including the trees, shrubs and grass within the boundaries of his Lot, the sprinkler systems and the exterior of the building located on the Lot in a neat, safe and attractive condition.

## **ARTICLE XVII** **Access To Other Property**

Except for the Declarant, no Owner shall permit or otherwise authorize any portion of any Lot to be utilized as a pedestrian or vehicular easement, roadway, driveway, street or other means or method of access, ingress or egress to areas or property not included within the Properties. The purpose of this provision is to preserve and protect the integrity of the exterior boundaries of the Properties, and to preclude and prohibit any break in these boundaries by any easement, roadway, driveway or street granted, permitted or otherwise created by any Owner other than the Declarant. The Declarant reserves the right to grant such easements or create such roadways upon land or Lots owned by the Declarant as the Declarant, in the Declarant's sole discretion, determines necessary, appropriate or desirable.

## **ARTICLE XVIII** **Vehicles Prohibited**

No two (2), three (3) or four (4) wheel motorized recreational vehicle, e.g., go cart, all terrain vehicle, etc., shall be operated on any portion of the Properties, provided, however, the Declarant may approve certain motorized vehicles designed so as not to disturb the neighborhood, such as electric golf carts, for transportation.

## **ARTICLE XIX** **Garbage and Refuse Disposal**

No Lot shall be used, maintained, or allowed to become a dumping ground for scraps, litter, leaves, limbs or rubbish. Trash, garbage or other waste shall not be allowed to accumulate on any Lot or other part of the Properties and shall not be kept except in sanitary containers located and installed in the manner approved by the Architectural Review Board. All equipment for the storage or disposal of such material shall be kept in



a clean and sanitary condition and shall not be visible from the street or from any private or common driveway except for those times designated for collection by the appropriate waste management and collection authority.

## **ARTICLE XX** **Tree Removal or Damage and Mitigation**

The Owner shall at all times protect against any direct or indirect damage to all vegetation, trees and land features located on the Lot and not specifically shown to be affected in the construction documents approved by the Architectural Review Board. No trees shall be removed or damaged without the prior written approval of the Architectural Review Board.

## **ARTICLE XXI** **Factory Built Structures**

No structure of any kind that is commonly known as a “factory built”, “modular” or “mobile home” construction shall be placed or permitted to remain on any Lot.

## **ARTICLE XXII** **Driveways and Parking Areas**

All driveways, parking areas and sidewalks shall be constructed of concrete, exposed aggregate or pavers as approved by the Architectural Review Board. All driveways shall have a minimum width of eight (8) feet and all sidewalks shall have a minimum width of four (4) feet. Black asphalt, gravel, pine straw, mulch, shell, soil cement, clay or similar materials shall not be permitted as a driveway surface. All connections of driveways to roadways within the Properties shall be made in a neat, workmanlike manner. Culverts beneath driveways shall have end walls or constructed from such materials approved by the Architectural Review Board. No standing end walls



shall be permitted. All driveways shall be constructed in a manner that will not alter or interfere with the drainage system within the Properties.

### **ARTICLE XXIII Exterior Finishes and Shutters**

The exterior finish of all foundations shall be stucco or brick. The exterior finish of each side of each dwelling unit and accessory structure shall be stucco, brick, wood or such other material as may be specifically approved by the Architectural Review Board, in its sole discretion, on a case-by-case basis. The exterior finish of each structure shall be consistent in quality, workmanship and detail on all sides of the structure with a minimum of three (3) sided material and on corner lots, four (4) sided material..

Hurricane and storm shutters may be used on a temporary basis, but shall be stored within an enclosed structure.

### **ARTICLE XXIV Utility Connections and Solar Collectors**

All utility connections to any structure on any Lot including, but not limited to, water, electricity, telephone, cable television and sanitary sewage, shall be placed underground from the proper connecting points to the structure in a manner acceptable to the governing utility authority. No solar collector or other similar devise or system shall be placed or permitted to remain on any structure or on any Lot unless the location, design and construction of the devise or system are approved by the Architectural Review Board.



**ARTICLE XXV**  
**Heating and Air-Conditioning Systems**

Any and all heating and air-conditioning equipment required to be outside of a structure shall be shielded and hidden so that such equipment shall not be readily visible from any roadway or any other Lot. No such equipment shall be located at the front of any structure. Window air-conditioning units shall not be permitted.

**ARTICLE XXVI**  
**Walls, Fences and Gateposts**

Walls, fences and gateposts shall be subject to review and approval as set forth in Article XXXI below. The Architectural Review Board, in its sole discretion, may refuse to approve any plan for any wall, fence or gatepost that is not in harmony with the existing or proposed structure, landscaping or general characteristics of the Lot and the surrounding Properties. There shall be no chain link, welded wire, hog wire, field fence, or similar type of fencing material allowed. No fence shall be approved with exposed stringers or other structural components, which are visible from any adjoining Lot. No gateposts, entrance stanchions or other decorative fences, posts or columns shall be allowed except as part of an approved fence plan. The specific provisions contained in this Article shall be construed to be in furtherance, and not in limitation, of the provisions set forth in Article XXXI below.

## ARTICLE XXVII

### **Firearms, Fireworks and Burning**

No hunting, trapping, or shooting of any kind, including, but not limited to guns, rifles, shotguns, hand guns, pellet, B.B. or other guns, slings or slingshots, shall be allowed anywhere on the Properties. No fireworks shall be allowed at anytime anywhere on the Properties. No burning of any kind shall be allowed on any portion of the Properties except with the prior written approval of the Declarant following specific permitting and approvals by all appropriate governmental authorities.

## ARTICLE XXVIII

### **Water Supply and Sewage Disposal**

No individual water supply system or sewage disposal of any type shall be permitted on any Lot except permitted septic systems.

## ARTICLE XXIX

### **Construction of Improvements**

Section 1. Time for Completion. The exterior of all residences and detached buildings shall be completed within nine (9) months after the commencement of construction, unless a longer period of construction is specifically approved in writing by the Architectural Review Board at the time of approval of the improvements or unless such completion is impossible or would result in great hardship to the Owner or builder due to strikes, fires, floods, lightning, earthquakes or other casualties; and notwithstanding the foregoing provision, the exterior of all residences and detached building shall be completed within one (1) year after the construction of such residence or detached building shall have been commenced. The Architectural Review Board or the Declarant may extend this period only for good cause shown.



Section 2. Destruction. In the event any improvement is destroyed, in whole or in part, the debris therefrom must be removed and the Lot restored to a neat and sightly condition as soon as practical but no later than three (3) months after the date of the destruction. Any damaged improvements shall be restored or completely demolished and removed within nine (9) months after the date of destruction.

Section 3. Storage of Materials. No lumber, bricks, stones, cinder blocks, scaffolding, mechanical devices or other materials or devices used for building purposes shall be placed, stored or kept on any Lot, except during and when being used in construction. During construction, no fill, dirt, sand, block pipe or construction debris shall be stored on or allowed to remain on any Lot for over ninety (90) days.

Section 4. Trees, etc. The Architectural Review Board or the Declarant may specify specimen trees on particular Lots to be protected by the Owner during and subsequent to construction with steps such as, but not limited to, deep-root fertilization, pruning, repair of tree wounds, protection by fencing, or planking, spraying to control disease and insect infestation, or other protective programs. Dead or diseased trees, shrubs, bushes or other vegetation shall be cut and removed promptly from any Lot by the Owner thereof.

Section 5 Occupancy. Before any residence constructed on a Lot may be occupied, the exterior of the residence must be fully completed, the Lot must be cleaned, all building materials and devices used in connection with the construction of the residence must be removed from the Lot and the approved landscaping plan must be implemented.

**ARTICLE XXX**  
**Antenna, Flagpoles, Sports Equipment, Lighting and Tanks**

No exterior radio, television or satellite dish antenna poles, masts or other exterior reception devices may be installed on any portion of the Properties except in the sole discretion of the Architectural Review Board. Sports and play equipment and facilities such as basketball goals, tennis courts and playground equipment shall be located only in a location approved by the Architectural Review Board in a manner in which it is least visible from any street and in a manner in which it will not constitute an annoyance or nuisance to any owner of a Lot. The type, location and placement of any outdoor lighting shall be subject to the approval of the Architectural Review Board, which approval shall be conditioned upon the Owner providing visual screening of any such lighting by existing trees and vegetation and/or additional landscaping. No tank for the storage of fuel, water or other substance shall be placed or permitted to remain on any Lot unless the tank is buried and the location of the tank is approved by the Architectural Review Board.

**ARTICLE XXXI**  
**Architectural Review Board**

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to materials, external design, internal design, and location by an Architectural Review Board composed of three (3) or more representatives appointed by the Board of Directors of the Association. In addition, the Architectural Review Board shall be responsible for

monitoring and otherwise maintaining the Landscape Buffer and Patriarch Trees as described in Articles XXXIII and XXXV below.

### **ARTICLE XXXII Maintenance of Common Areas**

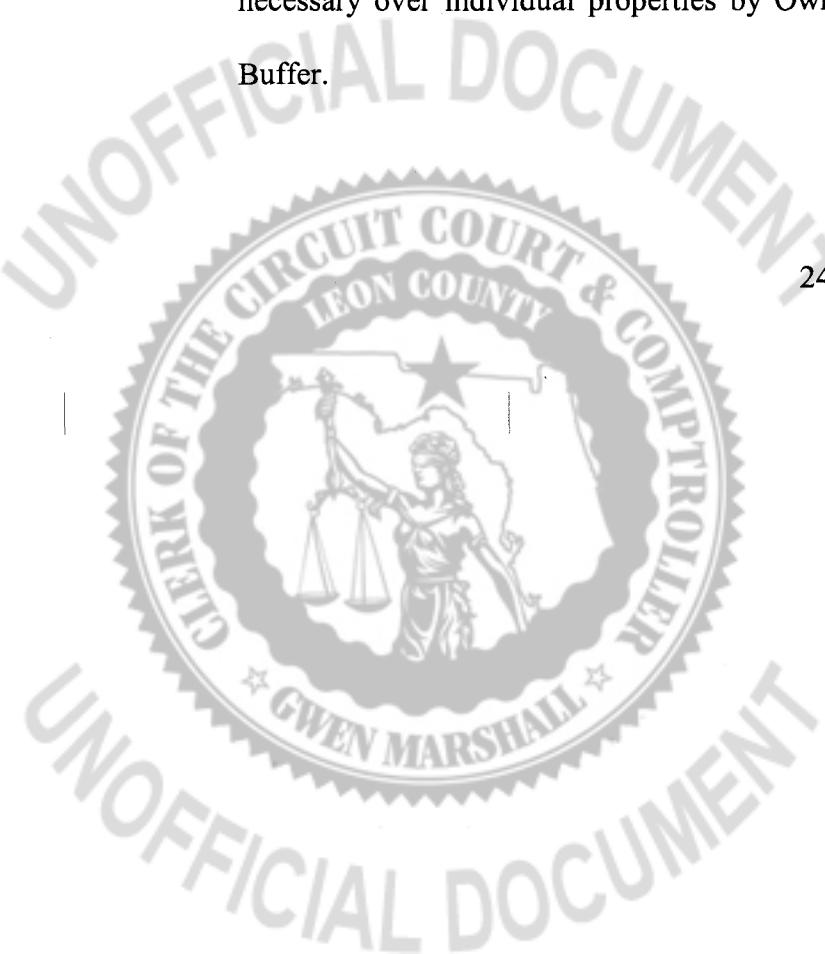
The Association shall be responsible for all maintenance and repair of all Common Areas as identified on the Plat, including but not limited to landscaping. This will include maintenance of the Landscape Buffer and the Association will be responsible for the maintenance and preservation of the Landscape Buffer.

### **ARTICLE XXXIII Landscape Buffer**

No vegetation shall be removed from the Landscape Buffer as identified on the Plat by any Owner. No vegetation shall be removed from the Landscape Buffer by the Association without the prior written approval of the Architectural Review Board and the Environmental Review Section of the Leon County Growth & Environmental Management Department. The Landscape Buffer shall be preserved in its natural state and the Association shall be granted any easements necessary over individual properties by Owners to access and maintain the Landscape Buffer.

### **ARTICLE XXXIV Easements**

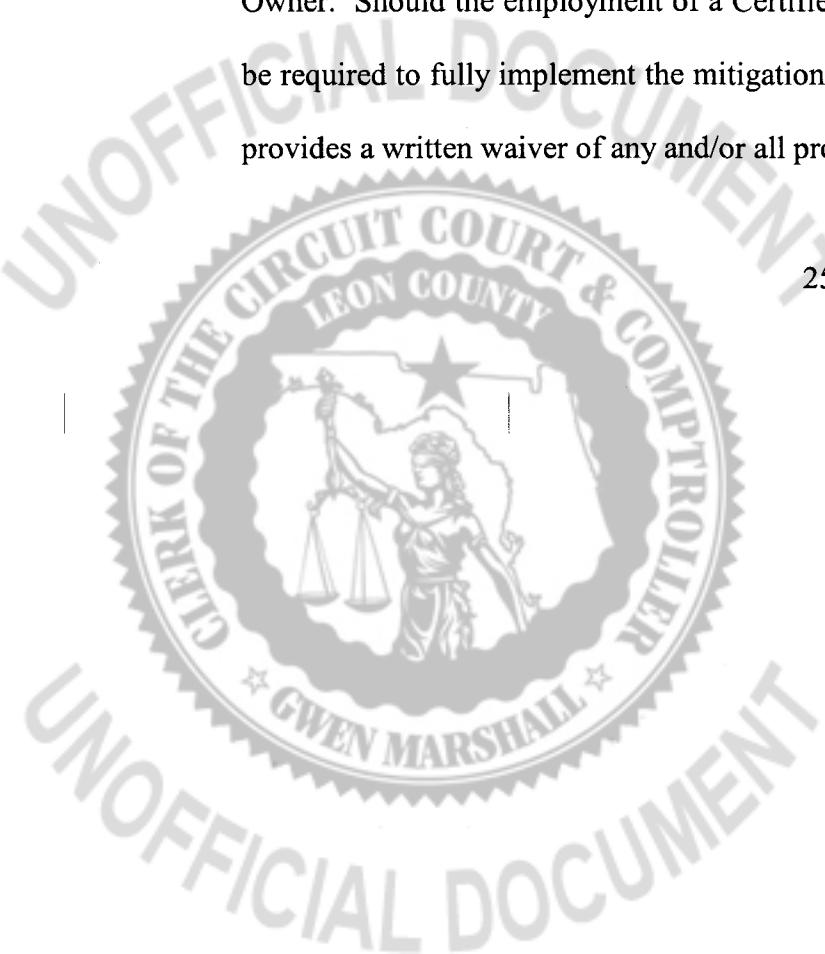
The Association Drainage Easements identified on the Plat shall be maintained by the Association. No property owner shall fence a drainage easement or otherwise impede the flow of water through the easement. The Association shall be granted any easements necessary over individual properties by Owners to access and maintain the Landscape Buffer.



## **ARTICLE XXXV**

### **Patriarch Trees**

Trees located within Mariana Oaks and having a diameter breast height of thirty-six (36") inches and larger shall be known as Patriarch Trees. All Patriarch trees shall be preserved to the best extent possible. No removal of Patriarch Trees shall occur by any Owner without the prior written approval of the Architectural Review Board and the Environmental Review Section of the Leon County Growth & Environmental Management Department. Should a Patriarch Tree have to be removed due to a building footprint on a property or other reason, the Architectural Review Board may require, in their sole and absolute discretion, that the Owner retain a Certified Tree Arborist to provide a mitigation plan. Should the Architectural Review Board require an Owner to retain a Certified Tree Arborist to provide a mitigation plan, the expenses of such employment and implementation of the mitigation plan shall be paid for solely and completely by the individual Owner and the Owner shall be responsible for implementing the mitigation plan in full unless the Architectural Review Board provides a written waiver of any and/or all provisions. In addition, should an individual Owner remove a Patriarch Tree on the Properties without the prior written approval of the Architectural Review Board, the Board of Directors of the Association or the Architectural Review Board may require the Owner to retain the services of a Certified Tree Arborist to provide a mitigation plan. The expense of such employment and the costs of implementing the mitigation plan shall be the sole and exclusive responsibility of the Owner. Should the employment of a Certified Tree arborist be required, the Owner shall be required to fully implement the mitigation plan unless the Architectural Review Board provides a written waiver of any and/or all provisions.



## ARTICLE XXXVI

### General Provisions

**Section 1. Enforcement.** The Declarant, the Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, including injunctive relief, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant, Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 2. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions, which shall remain in full force and effect.

**Section 3. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of this Declaration recordation, after which time they may be extended by the Association for additional twenty (20) year periods in perpetuity. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than eighty percent (80%) of the Owners, and thereafter by an instrument signed by not less than two-thirds of the Owners. Any amendment must be recorded.

**Section 4. Annexation.** No additional land may be annexed without the consent of two-thirds vote of each class of members of the Association.

**Section 5. FHA/VA Approval.** As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration and the Veterans Administration. Annexation of additional properties,

dedication of Common Areas, and amendment of this Amended and Restated Declaration of Covenants, Conditions and Restrictions.

**Section 6. Attorney's Fees.** The prevailing party in any litigation, including appeals, to require the Association to perform its obligations in regard to annual or other assessments and the maintenance or repair of streets and other common facilities shall be entitled to recover attorney's fees and costs. In addition, the prevailing party in any litigation, including appeals, to require the Declarant to perform any other action or obligation imposed on the Declarant pursuant to these restrictive covenants shall be entitled to recover attorney's fees and costs.

**Section 7. Common Area Ownership.** The Declarant shall deed the private streets or roads, drainage facilities, the Landscape Buffer and other common area improvements to the Association before more than seventy percent (70%) of the Lots have been sold or deeded away by the Declarant.

**Section 8. Amendments Prohibited.** No amendments shall be allowed to those portions of these restrictive covenants that contain provisions required under Section 10-1560, 1(1) – 1(m), Leon County Code of Laws, without the written consent and joinder of Leon County, which consent and joinder may be given by the county attorney provided the minimum requirements of this section have been fully complied with.



DATED this 17<sup>th</sup> day of June, 2008.

Signed, sealed and delivered in the

Presence of:

Marcia Marshall

Witness Signature

Marcia C. Marshall

Witness Printed Name

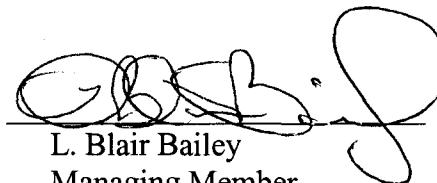
Yvonne J. Rane

Witness Signature

Lora T. Rowe

Witness Printed Name

**MASON CREEK, LLC**

By: 

L. Blair Bailey

Its: Managing Member

STATE OF FLORIDA  
COUNTY OF LEON

Executed by **L. Blair Bailey** as Managing Member of **Mason Creek, LLC**,  
known to be the person described in and who executed the foregoing instrument, who  
acknowledged before me that he executed the same, and that an oath was not taken.

WITNESS my hand and official seal in the County and State last aforesaid this  
17<sup>th</sup> day of June, 2008.

Personally Known   
Produced Identification \_\_\_\_\_  
Form of Identification \_\_\_\_\_

Connie H. Shivers  
Notary Public  
My Commission Expires: \_\_\_\_\_

[SEAL]



## SECTION 8, W 1/2 OF SW 1/4 N. ST. AUGUSTINE RD. &amp; E. OF WILLIAMS ROAD

AND BEING MORE PARTICULARLY DESCRIBED BY PRODUCT OF FIELD SURVEY AS FOLLOWS: A TRACT OF LAND LYING IN SECTION 8, TOWNSHIP 1 SOUTH, RANGE 2 EAST, LEON COUNTY, FLORIDA.

COMMENCE AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 1 SOUTH, RANGE 2 EAST, AND RUN THENCE WEST 1008.90 FEET, THENCE S 00 DEGREES 20 MINUTES 00 SECONDS E 666.65 FEET; THENCE EAST 1348.71 FEET TO A FOUND CONCRETE MONUMENT (#1254) MARKING THE NORTHEAST CORNER OF THAT PROPERTY AS DESCRIBED IN OFFICIAL RECORDS BOOK 1221, PAGE 896, THENCE S 00 DEGREES 20 MINUTES 00 SECONDS E ALONG THE EASTERLY BOUNDARY AND A PROJECTION THEREOF 666.65 FEET TO A FOUND CONCRETE MONUMENT (4"X 4") MARKING THE SOUTHEAST CORNER OF THAT PROPERTY AS DESCRIBED IN OFFICIAL RECORDS BOOK 1651, PAGE 967 THENCE N 89 DEGREES 52 MINUTES 28 SECONDS W ALONG THE SOUTH BOUNDARY OF SAID PROPERTY AND A PROJECTION THEREOF 373.79 FEET TO A FOUND CONCRETE MONUMENT (#4923) AND THE POINT OF BEGINNING. FROM SAID POINT OF BEGINNING RUN THENCE S 00 DEGREES 04 MINUTES 40 SECONDS E, 1504.51 FEET TO A SET IRON ROD AND CAP (#7245), SAID POINT BEING ON THE NORTH RIGHT OF WAY BOUNDARY OF ST. AUGUSTINE ROAD (60' RIGHT OF WAY); THENCE ALONG SAID NORTH RIGHT OF WAY BOUNDARY THE FOLLOWING TWO COURSES TO WIT: N 89 DEGREES 53 MINUTES 50 SECONDS W 651.78 FEET TO A SET IRON ROD AND CAP (#7245); THENCE N 87 DEGREES 25 MINUTES 10 SECONDS W, 642.66 FEET TO A SET IRON ROD AND CAP (#7245); SAID POINT BEING THE INTERSECTION OF THE EASTERLY MAINTAINED RIGHT OF WAY WILLIAMS ROAD; THENCE LEAVING THE NORTH RIGHT OF WAY BOUNDARY OF SAID ST. AUGUSTINE ROAD; RUN N 00 DEGREES 05 MINUTES 07 SECONDS W, 811.38 FEET TO A SET IRON ROD AND CAP (#7245) TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE EASTERLY; THENCE NORTHERLY ALONG SAID CURVE HAVING A RADIUS OF 1167.00 FEET THROUGH A CENTRAL ANGLE OF 29 DEGREES 50 MINUTES 02 SECONDS FOR AN ARC LENGTH OF 607.65 FEET (CHORD BEARS N 14 DEGREES 49 MINUTES 54 SECONDS E 600.81 FEET) TO A SET IRON ROD AND CAP (#7245); THENCE N 29 DEGREES 44 MINUTES 55 SECONDS E 97.47 FEET TO A FOUND 3/4" IRON PIPE; THENCE LEAVING SAID RIGHT OF WAY BOUNDARY RUN ALONG PROPERTIES AS DESCRIBED IN O.R. 1450, PG. 196; O.R. 912, PG.127; AND O.R.303, PG. 264 THE FOLLOWING THREE COURSES; N 89 DEGREES 54 MINUTES 54 SECONDS E, 116.09 FEET TO A FOUND 3/4" IRON PIPE; THENCE S 89 DEGREES 51 MINUTES 58 SECONDS E, 564.53 FEET TO A FOUND CONCRETE MONUMENT (NO IDENTIFICATION); THENCE S 89 DEGREES 49 MINUTES 34 SECONDS E 410.48 FEET TO THE POINT OF BEGINNING.

