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DECLARATION OF RESTRICTIONS FOR PINE MEADOWS AT HERON CREEK

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DECLARATION OF RESTRICTIONS FOR PINE MEADOWS AT HERON CREEK

THIS DECLARATION is made this ___ day of September 1999 by **HERON CREEK ASSOCIATES, LTD.**, a Florida limited partnership ("Developer").

RECITALS:

A. Developer is the owner of the following described property lying and being in the County of Sarasota, State of Florida, to-wit:

> Lots 1 through 45, Block A, HERON CREEK, UNIT I, as per plat thereof recorded in Plat Book 40, page 47, Public Records of Sarasota County, Florida.

which property is hereinafter called the "Subdivision."

B. The Subdivision is part of a larger community known as "Heron Creek," which Developer intends to develop for residential, recreational, commercial, and other uses and purposes.

C. Developer has recorded in the Public Records of Sarasota County, Florida, a "Declaration of Covenants, Conditions, and Restrictions for Heron Creek" (the "Heron Creek Covenants"), which instrument establishes a general plan of restrictions for the administration, maintenance, preservation, use, and enjoyment of all lands within the Heron Creek community.

D. The Heron Creek Covenants contemplate the recording of "Supplemental Declarations" by which specific "Neighborhoods" will be identified and more detailed restrictions applicable to such "Neighborhoods" will be established.

E. By virtue of this Declaration, Developer desires to identify the Subdivision as a "Neighborhood" within the Heron Creek community and establish more specific covenants and conditions concerning the development, improvement, and usage of the Subdivision property for the benefit and protection of all Subdivision property owners.

NOW, THEREFORE, Developer does hereby declare that all property in the Subdivision shall hereafter be subject to the following provisions, restrictions, reservations, covenants, conditions, and easements:

ARTICLE 1
DEFINITIONS

Unless prohibited by the context in which they are used, the following words, when used in this Declaration, shall have the following meanings:

1.1 "Additional Property" shall have the meaning set forth in Article 1 of the Heron Creek Covenants.

1.2 "Approved Builder" shall have the meaning set forth in Article 5.3.

1.3 "Architectural Committee" shall mean the committee constituted and empowered pursuant to Article 12 of the Heron Creek Covenants to control and regulate all Construction Work.

1.4 "Architectural Criteria" shall mean such restrictions and regulations as may be adopted from time to time by the Architectural Committee with respect to Construction Work affecting the Community or any portion thereof.

1.5 "Articles of Incorporation" shall mean the Articles of Incorporation of the Association, a copy of which is attached to the Heron Creek Covenants as Exhibit "D."

1.6 "Assessable Parcel" shall mean a Parcel to which one or more Assessment Shares have been allocated pursuant to Article 9.2 of the Heron Creek Covenants.

1.7 "Assessments" shall mean assessments levied by the Board against the Parcels in accordance with the provisions of Article 9 of the Heron Creek Covenants for the payment of Association Expenses.

1.8 "Assessment Share" shall have the meaning set forth in Article 9.2.A of the Heron Creek Covenants.

1.9 "Association" shall mean Heron Creek Community Association, Inc., a Florida corporation not for profit.

1.10 "Association Expenses" shall mean all expenses incurred by the Association in the performance of its obligations or the exercise of its powers pursuant to the Heron Creek Covenants, any Supplemental Declaration, the Articles of Incorporation, or the Bylaws.

1.11 "Attorney's Fees" shall mean all reasonable attorney's fees incurred in connection with a matter, including fees for trial and appellate proceedings and fees for services not involving litigation.

1.12 "Base Neighborhood Expenses" shall mean those expenses described in Article 7.2.

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

1.14 "Bylaws" shall mean the Bylaws of the Association, a copy of which is attached to the Heron Creek Covenants as Exhibit "E."

1.15 "Common Areas" shall mean the Community Common Areas and the Neighborhood Common Areas, collectively.

1.16 "Community" shall have the meaning set forth in Article 2.1.

1.17 "Community Assessment" shall mean an Assessment levied by the Board against an Assessable Parcel in accordance with the provisions of Article 9 of the Heron Creek Covenants for the payment of a portion of the Community Expenses.

1.18 "Community Common Areas" shall mean all real and personal property (or interest therein), other than the Neighborhood Common Areas, that is: (a) owned by the Association; (b) identified as such in this Declaration, the Heron Creek Covenants, or in any other instrument executed by Developer and recorded in the Public Records; (c) designated by Developer in an instrument delivered to the Association as property intended for the common use and enjoyment of all Community Owners; or (d)

maintained by the Association for the benefit of all Community Owners pursuant to written agreement entered into by the Association.

1.19 "Community Expenses" shall have the meaning set forth in Article 7.2 of the Heron Creek Covenants.

1.20 "Community Owner" shall mean the record owner, whether one or more Persons, of the fee simple title to a Parcel.

1.21 "Community Roads" shall have the meaning set forth in Article 1 of the Heron Creek Covenants.

1.22 "Community Standards" shall have the meaning set forth in Article 1 of the Heron Creek Covenants.

1.23 "Construction Work" shall mean any installation, construction, restoration, replacement, alteration, addition, or demolition of Improvements on a Lot or on the Subdivision's Neighborhood Common Areas.

1.24 "Contiguous Property" shall have the meaning set forth in Article 1 of the Heron Creek Covenants.

1.25 "Country Club" shall have the meaning set forth in Article 1 of the Heron Creek Covenants.

1.26 "Country Club Owner" shall mean the Persons who, at a given time, own the Country Club.

1.27 "Country Club Parcel" shall have the meaning set forth in Article 1 of the Heron Creek Covenants.

1.28 "Developer" shall mean Heron Creek Associates, Ltd., a Florida limited partnership, any successor or legal representative of Heron Creek Associates, Ltd., or any Person to whom all rights of Heron Creek Associates, Ltd. under this Declaration are hereafter assigned pursuant to written instrument duly recorded in the Public Records.

1.29 "Final Development Date" shall mean the earlier of the following two dates: (a) the date which is five years following the date of recording in the Public Records of a statement executed by Developer to the effect that the last Supplemental Declaration has been recorded in the Public Records; or (b) January 1, 2030.

1.30 "Golf Course" shall mean that portion of the Country Club Parcel on which Developer, or other Person designated by Developer, constructs and maintains a golf course and related facilities, which facilities may include, by way of illustration and not as a limitation, driving ranges, putting greens, cart paths, lakes, and portions of the Surfacewater Management System.

1.31 "Heron Creek" shall mean those lands in Township 39 South, Range 21 East, Sarasota County, Florida, that have been or hereafter may be developed by Developer as part of the planned community known as "Heron Creek."

1.32 "Heron Creek Covenants" shall mean the "Declaration of Covenants, Conditions, and Restrictions for Heron Creek" recorded in the Public Records as Official Records Instrument #1999127212, as amended.

1.33 "Holdings" shall mean Marsh Creek Holdings, Ltd., a Florida limited partnership.

1.34 "Home Occupation" shall have the meaning set forth in Section 3.32 of the Land Development Code.

1.35 "Improvements" shall mean all buildings, driveways, parking areas, walks, walls, fences, signs, structures, utility installations, site paving, grading, screen enclosures, pools, tennis courts, game structures, mailboxes, mechanical equipment, solar energy devices, antennae, satellite dishes, water and sewer lines, drains, wells, irrigation systems, landscaping, landscape devices and objects, exterior sculptures and fountains, docks, and other improvements of any kind, together with any subsequent alterations, additions, or replacements.

1.36 "Individual Parcel Assessment" shall mean an assessment levied by the Board against a Lot in accordance with the provisions of Article 9 of the Heron Creek Covenants for the payment of Individual Parcel Expenses attributable to such Lot.

1.37 "Individual Parcel Expenses" shall have the meaning set forth in Article 7.5 of the Heron Creek Covenants.

1.38 "Institutional Mortgagee" shall mean a savings and loan association, bank, credit union, mortgage banker, mortgage broker, insurance company, pension fund having assets in excess of $100 million, agency of any state government, or agency of the United States Government (including the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation), and its subsidiaries, affiliates, successors, and assigns, holding a first mortgage lien upon any Parcel.

1.39 "Irrigation Water Agreement" shall mean that certain agreement attached as Exhibit "A" to this Declaration.

1.40 "Land Development Code" shall mean the City of North Port Unified Land Development Code, as adopted by the City Commission of the City of North Port, Florida, by Ordinance No. 99-21, enacted July 19, 1999.

1.41 "Lot" shall mean a platted lot within the Subdivision.

1.42 "Lot Owner" shall mean the record owner, whether one or more Persons, of the fee simple title to a Lot.

1.43 "Neighborhood" shall mean any portion of the Community identified as such in a Supplemental Declaration.

1.44 "Neighborhood Assessment" shall mean an assessment levied by the Board against an Assessable Parcel in accordance with the provisions of Article 9 of the Heron Creek Covenants for the payment of a portion of the Neighborhood Expenses applicable to the Neighborhood in which such Assessable Parcel is located.

1.45 "Neighborhood Committee" shall have the meaning set forth in Article 3.3 of the Heron Creek Covenants.

1.46 "Neighborhood Common Areas" shall mean all real and personal property (or interest therein) that is designated as such in any Supplemental Declaration for the common use and benefit of one or more Neighborhoods and their respective Neighborhood Owners.

1.47 "Neighborhood Expenses" shall have the meaning set forth in Article 7.3 of the Heron Creek Covenants.

1.48 "Neighborhood Owners" shall mean the Community Owners of Parcels in a Neighborhood.

1.49 "Neighborhood Roads" shall have the meaning set forth in Article 1 of the Heron Creek Covenants.

1.50 "Parcel" shall mean any parcel of real property (including all appurtenances thereto) that is located within the Community, that is not part of the Common Areas, and that is: (a) a platted subdivision lot or tract; (b) a condominium unit; or (c) an unplatted tract of land.

1.51 "Person" shall mean a natural person, corporation, partnership, trustee, or other legal entity.

1.52 "Properties" shall have the meaning set forth in Article 1 of the Heron Creek Covenants.

1.53 "Public Records" shall mean the Public Records of Sarasota County, Florida.

1.54 "Reclaimed Water" shall mean water that has received a degree of treatment and basic disinfection at a wastewater treatment facility but does not qualify as potable water under applicable governmental regulations.

1.55 "Restricted Vehicle" shall mean any truck; motor home, camper, or other vehicle designed to provide temporary living quarters and having facilities for sleeping, galley, and head; trailer; boat; watercraft; aircraft; racing car; bus; motorcycle; commercial vehicle; or vehicle that is damaged, unsightly, or inoperable. As used herein, "commercial vehicle" shall include, but not be limited to, any automobile bearing signage identifying a business name.

1.56 "Rules and Regulations" shall have the meaning set forth in Article 1 of the Heron Creek Covenants.

1.57 "Special Assessment" shall mean an assessment levied by the Board against a Parcel in accordance with the provisions of Article 9 as a supplement to a Community Assessment for the payment of a portion of the Community Expenses or as a supplement to a Neighborhood Assessment for the payment of a portion of the Neighborhood Expenses applicable to the Neighborhood (if any) in which such Parcel is located.

1.58 "Subdivision" shall mean the property described in Recital A of this Declaration.

1.59 "Supplemental Declaration" shall mean any instrument identified as such, executed by or consented to by Developer and recorded in the Public Records, pursuant to which any portion of the Additional Property or Contiguous Property is made subject to the Heron Creek Covenants or any portion of the Properties is identified as a Neighborhood, as such instrument may be amended from time to time.

1.60 "Supplemental Neighborhood Expenses" shall mean those expenses described in Article 7.3.

1.61 "Surfacewater Management System" shall mean the waters of all lakes, ponds, swales, culverts, inlets, and outfalls used in connection with the retention, drainage, and control of surface waters within the Community, together with all drainage control devices and apparatus used in connection therewith and all easements therefor as may exist by virtue of this Declaration or other recorded instrument or plat.

1.62 "SWFWMD" shall mean the Southwest Florida Water Management District.

1.63 "Turnover" shall mean the date on which the Turnover Meeting described in Article 6.2 of the Articles of Incorporation occurs.

1.64 "Unimproved Parcel" shall mean an Assessable Parcel on which no bona fide construction of Improvements has commenced.

1.65 "Voting Member" shall mean the chairman of the Subdivision's Neighborhood Committee; provided, however, until the election of the Subdivision's first Neighborhood Committee, it shall mean the president of the Association.

1.66 "Working Capital Contribution" shall have the meaning set forth in Article 9.4.

ARTICLE 2
HERON CREEK

2.1 **The Community.** The Subdivision is an integral part of a larger development known as Heron Creek. Certain lands within the Heron Creek development will be subject to the Heron Creek Covenants, which have been established by Developer to provide for the administration, maintenance, preservation, use, and enjoyment of such lands. All lands which are subject to the Heron Creek Covenants, in accordance with the provisions thereof, are referred to as the "Community." By virtue of the provisions of the Heron Creek Covenants, the Subdivision has been made subject to the Heron Creek Covenants and been identified as part of the Community.

2.2 **Expansion and Contraction of the Community.** Lands may be added to, or withdrawn from, the Community in accordance with the provisions of Article 2 of the Heron Creek Covenants. No lands shall become part of the Community except in accordance with the provisions of Article 2 of the Heron Creek Covenants.

2.3 **Country Club.** The Country Club Parcel is not presently part of the Community and will not become part of the Community unless and until it is made subject to the provisions of the Heron Creek Covenants in accordance with the provisions of Article 2.3 thereof. Whether or not the Country Club Parcel is made part of the Community, due to the proximity of the Country Club Parcel to lands that are, or are contemplated to be, part of the Community, special provisions applicable to the Country Club Parcel and the Country Club are set forth in Article 17 of the Heron Creek Covenants. Neither membership in the Association nor ownership or occupancy of a Lot shall confer upon any Person any right to use the Country Club or the Country Club Parcel or any ownership interest, or legal or equitable property interest of any kind whatsoever, in the Country Club or the Country Club Parcel. Rights to use the Country Club will be granted only to such Persons, and only on such terms and conditions, as may be determined from time to time by the Country Club Owner. The Country Club Owner shall have the right, from time to time in its sole and absolute discretion and without notice, to: (a) establish, amend, or waive

the terms and conditions of use of the Country Club, including, without limitation, eligibility for and duration of use rights, number of Persons entitled to use rights, categories of use, and extent of use rights; (b) reserve use rights; and (c) terminate use rights altogether. Operation, maintenance, and use of the Country Club shall be controlled exclusively by the Country Club Owner in its sole and absolute discretion, and no Person shall have any claim against the Country Club Owner or Developer for the manner in which such discretion is exercised.

2.4 Golf Course. The Country Club presently includes the Golf Course. The Country Club Owner may, in its discretion and without obligation, modify the location and configuration of bunkers, greens, fairways, tees, and other portions of the Golf Course and expand the Golf Course to include additional holes and facilities. To the extent any Golf Course landscaping, irrigation systems, maintenance vehicle access drives, or golf cart paths connecting holes of the Golf Course are located on any portion of the Subdivision not owned or leased by the Country Club Owner, the Country Club Owner shall have a nonexclusive easement over such portion for the use, maintenance, and replacement of such landscaping, irrigation systems, access drives, and golf cart paths and Improvements incidental thereto. The extent of Golf Course landscaping, and the extent of maintenance thereof, shall be as determined by the Country Club Owner. The Country Club Owner shall have no obligation to preserve or enhance the view of any Lot Owner through the installation, maintenance, trimming, or pruning of any Golf Course trees or landscaping. The Country Club Owner may do all things necessary or appropriate, as determined by the Country Club Owner in its sole discretion, to maintain or operate the Golf Course, including: (a) apply pesticides, fertilizers, and other chemicals to the Golf Course; (b) conduct Golf Course maintenance operations, including the operation of maintenance vehicles and equipment, during such hours as the Country Club Owner may determine; and (c) permit play on the Golf Course, and the operation of golf carts, during such hours as the Country Club Owner may determine. No Person shall have any claim against the Country Club Owner or Developer for any interference with such Person's view, peace and quiet, welfare, or access to light and air caused by any such maintenance or other activities undertaken or authorized by the Country Club Owner. No Person shall have the right to use the Golf Course for jogging, walking, exercising, picnicking, sunbathing, fishing, or other purposes without the express, written consent of the Country Club Owner, which consent may be withheld by the Country Club Owner in its sole and absolute discretion. Each Person playing golf upon the Golf Course shall have a nonexclusive license to go upon any portion of the Subdivision adjacent thereto to retrieve errant golf balls as long as such Person does not damage the adjacent property while accomplishing such retrieval. Any golfer causing damage by his errant golf ball or while retrieving it shall be solely responsible for such damage, and Developer and the Country Club Owner shall have no responsibility therefor. The present or future use of the Golf Course for golf course purposes may be discontinued or suspended at any time hereafter by the Country Club Owner.

2.5 Common Areas. Pursuant to the provisions of the Heron Creek Covenants, certain property within the Community will be designated as Common Areas. As more particularly described in Article 5 of the Heron Creek Covenants, the Common Areas will be comprised of the Community Common Areas and the Neighborhood Common Areas.

2.6 Surfacewater Management System. Pursuant to the provisions of the Heron Creek Covenants, Holdings reserved all rights to the ownership and use of the waters of all lakes, ponds, swales, drainage control devices, and other areas and apparatus comprising the Surfacewater Management System. Without limiting the foregoing, Holdings (or its assigns or authorized agents) has the right to control the water level and maintenance of, and to remove or withdraw all or any part of the water from, any lake or any other portion of the Surfacewater Management System for any purpose, including but not limited to maintenance, compliance with governmental regulations, or extraction of fill dirt. In no event, however, shall Holdings remove or permit to be removed all or substantially all of the water in any such lake or other portion of the Surfacewater Management System for a period longer than one year unless

required to do so by governmental regulations or by other reasons beyond the control of Holdings. In conjunction with such activities, Holdings may place temporary stakes, fences, barriers, or equipment within any easement area (designated pursuant to Article 15.1 of the Heron Creek Covenants) adjacent to any such lake or other portion of the Surfacewater Management System. Subject to compliance with applicable governmental regulations, Holdings may, in its sole and absolute discretion and without notice, add Reclaimed Water to any lake or other portion of the Surfacewater Management System for any purpose, including but not limited to purposes related to irrigation of the Subdivision (whether or not pursuant to the terms of the Irrigation Water Agreement), other lands within Heron Creek, the Country Club Parcel, or other lands outside of Heron Creek. No Person shall have any claim against Holdings, the Country Club Owner, Developer, or the Association for any inconvenience or interference with such Person's view, peace and quiet, welfare, access to light and air, or any similar or related claim caused by such activities undertaken or authorized by Holdings.

2.7 **Landfill.** A portion of the Country Club Parcel is located on property that was formerly used as a landfill for the disposal of waste materials. Such property is described in Exhibit "C" to the Heron Creek Covenants. The Florida Department of Environmental Protection ("FDEP") issued a permit authorizing closure of the landfill in 1990. In 1998 FDEP issued an order determining that the landfill had stabilized. Under FDEP rules, "stabilized" means that the biological and chemical decomposition of the wastes has ceased or diminished to a level so that such decomposition no longer poses a pollution, health, or safety hazard. **DEVELOPER MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY ASPECT OF THE PROPERTY DESCRIBED IN EXHIBIT "C" TO THE HERON CREEK COVENANTS, INCLUDING ANY PRESENT OR FUTURE EMANATIONS FROM SUCH PROPERTY AND THE IMPACT, IF ANY, OF SUCH PROPERTY'S FORMERLY BEING USED AS A LANDFILL.**

ARTICLE 3
THE ASSOCIATION

3.1 **Purposes.** The general purposes of the Association are to operate, maintain, manage, and improve the Common Areas, and other portions of the Community, to the extent set forth in the Heron Creek Covenants and any Supplemental Declaration; to implement and enforce the provisions of this Declaration, the Heron Creek Covenants, and any other Supplemental Declaration wherever applicable and appropriate; and to promote the health, safety, and social welfare of the Community Owners. In the furtherance of such purposes, the Association, through the Board, shall have the power and duty to levy Assessments and to enforce collection thereof in the manner provided in Articles 9 and 10 of the Heron Creek Covenants. The Association shall also have such powers and duties as may be prescribed by its Articles of Incorporation and Bylaws and by the Heron Creek Covenants.

3.2 **Membership.** Each Lot Owner shall automatically be a member of the Association. Membership of a Lot Owner shall terminate as the Lot Owner's vested interest in the fee title to a Lot terminates and thereafter shall pass to such Lot Owner's successors in title as an appurtenance to such Lot; provided, however, that the foregoing provisions shall not be construed as completely terminating the membership of any member who may own two or more Parcels in the Community as long as at least one Parcel is owned by such member.

3.3 **Voting.** In all matters concerning the Association, the Lot Owners shall be represented by a Voting Member in accordance with the provisions of Article 4.4 of the Heron Creek Covenants. In all such matters, the number of votes to which each Lot Owner is entitled shall be as specified in Article 4.3 of the Heron Creek Covenants.

ARTICLE 4
THE NEIGHBORHOOD

4.1 Supplemental Declaration. This Declaration constitutes a Supplemental Declaration under the terms of the Heron Creek Covenants.

4.2 Neighborhood. The Subdivision is hereby designated as a separate Neighborhood under the terms of the Heron Creek Covenants.

4.3 Neighborhood Common Areas. Under the terms of the Heron Creek Covenants, certain property may be designated in a Neighborhood as Neighborhood Common Areas, which shall be for the common use and benefit of one or more Neighborhoods in Heron Creek and their respective Neighborhood Owners. Although no property is so designated in this Declaration, Developer reserves the right to amend this Declaration at any time prior to the Turnover to designate property as the Subdivision's Neighborhood Common Areas. Title to any property so designated shall be transferred to the Association no later than the Final Development Date. The transfer of title to any portion of the Subdivision's Neighborhood Common Areas to the Association shall be subject to all rights of Developer and other Persons set forth in this Declaration and the Heron Creek Covenants.

4.4 Neighborhood Committee. Although matters of interest common to the Subdivision will be administered by the Association in accordance with the provisions of this Declaration and the Heron Creek Covenants, the Subdivision shall have a Neighborhood Committee to advise the Board on matters affecting the interests of the Lot Owners. The election, composition, rights, and responsibilities of the Neighborhood Committee shall be as set forth in Article 3 of the Heron Creek Covenants.

4.5 Meetings of Lot Owners. Meetings of the Lot Owners shall be held in accordance with the provisions of Article 3.5 of the Heron Creek Covenants. Lot Owner voting rights at meetings of the Lot Owners shall be governed by the provisions of Article 3.6 of the Heron Creek Covenants.

4.6 Expansion of Neighborhood. Developer reserves the right, prior to the Turnover, to change the boundaries of the Neighborhood identified in Article 4.2 to add additional Parcels, subdivisions, or other lands. Any such change shall be made by an amendment to this Declaration, which amendment shall be executed by Developer and recorded in the Public Records. If the Neighborhood is expanded to include additional Parcels, the owners of such Parcels shall have the same rights and obligations under this Declaration as the Lot Owners. Expansion of the Neighborhood may include the designation of additional lands as Neighborhood Common Areas.

4.7 Additional Roads. Notwithstanding any other provision of this Declaration, Developer shall have the right, prior to the Turnover, to construct paved or unpaved roadways (including sidewalks, drainage facilities, street lighting, landscaping, and related improvements) over any portion of the Subdivision to provide access for the Lot Owners, the Community Owners of Parcels in such other Neighborhoods as may be designated by Developer, and such other Persons as may be designated by Developer, subject to the following terms and conditions:

A. Upon construction of any such roadway, Developer shall execute, and record in the Public Records, an amendment to this Declaration, which amendment shall designate the roadway as either a Community Road or a Neighborhood Road under the terms of the Heron Creek Covenants and shall further designate the Persons entitled to use the roadway.

B. No roadway shall be constructed by Developer over any Lot not owned by Developer.

ARTICLE 5
SUBDIVISION DEVELOPMENT PLAN

5.1 Single-Family Neighborhood. The Subdivision is being developed for single-family residential usage.

5.2 Architectural Control. To promote and assure architectural and aesthetic quality and discrimination in the construction of homes and other Improvements in the Community, the Heron Creek Covenants provide for the establishment of an Architectural Committee to evaluate plans for proposed Construction Work. Pursuant to Article 12 of the Heron Creek Covenants, no Construction Work, including construction of a home, shall be commenced on any Lot unless and until the plans and specifications for such Construction Work have been submitted to, and approved by, the Architectural Committee in accordance with the provisions of Article 12 of the Heron Creek Covenants.

5.3 Approved Builders. In keeping with Developer's intent to establish and maintain within the Subdivision a neighborhood of quality homes and aesthetically pleasing design, the first home to be constructed on each Lot shall be constructed by a builder approved by Developer (an "Approved Builder"). Developer shall establish and thereafter maintain a list of Approved Builders from which a Lot Owner may choose. The list of Approved Builders may change from time to time in Developer's sole discretion and may, if Developer so elects, consist of a single Approved Builder. The designation of a builder as an Approved Builder (including the number of builders so designated) shall not create any liability on the part of Developer, and no Person shall have any claim against Developer because of such designation. Developer shall not be liable in damages to any Person by reason of mistake in judgment, negligence, or nonfeasance in conjunction with such designation. Developer does not guarantee any aspect of the Approved Builders, including but not limited to contractual or other obligations, financial capacity, quality of construction, reliability of warranty programs, or timely completion of Improvements. Each Lot Owner agrees, by acquiring title to a Lot or an interest therein, that he will not bring an action or suit against Developer to recover damages in connection with matters to which this Article 5.3 pertains.

5.4 Required Installations. The plans submitted to the Architectural Committee for the construction of the first home on each Lot shall provide for the following installations, which installations shall be constructed with the home at the Lot Owner's expense and thereafter shall be maintained pursuant to Article 6:

A. Sidewalk. With respect to Lot 19 only, a five-foot-wide sidewalk shall be installed along the entire southwesterly and southeasterly Lot lines in the area between such Lot lines and the paved surfaces of Pine Shadow Lane and Pine Shadow Circle. With respect to Lot 25 only, a five-foot-wide sidewalk shall be installed along the entire southwesterly and northwesterly Lot lines in the area between such Lot lines and the paved surfaces of Pine Shadow Lane and Pine Shadow Circle. With respect to Lot 39 only, a five-foot-wide sidewalk shall be installed along the entire westerly and southerly Lot lines in the area between such Lot lines and the paved surface of Pine Shadow Lane and Pine Shadow Court. With respect to Lot 45 only, a five-foot-wide sidewalk shall be installed along the entire westerly and northerly Lot lines in the area between such Lot lines and the paved surface of Pine Shadow Lane and Pine Shadow Court. With respect to Lots 20 through 24 only, a five-foot-wide sidewalk shall be installed along the entire front Lot line in the area between such Lot line and the paved surface of Pine Shadow Circle. With respect to Lots 40 through 44 only, a five-foot-wide sidewalk shall be installed along the entire front Lot line in the area between such Lot line and the paved surface of Pine Shadow Court. With respect to all other Lots, a five-foot-wide sidewalk shall be installed along the entire front Lot line in the area between such Lot line and the paved surface of Pine Shadow Lane. The exact location of the sidewalks shall be as specified by Developer.

B. Irrigation System. A lawn and landscaping irrigation system for each Lot shall be installed in accordance with Article 10.10 and the Architectural Criteria. The irrigation system shall be connected to an irrigation water supply line installed by Developer. Water for the irrigation system will be supplied by the Association as part of the Subdivision's Supplemental Neighborhood Expenses and may include Reclaimed Water.

ARTICLE 6
MAINTENANCE

6.1 Maintenance of Lawns, Landscaping, and Irrigation Systems. The Association shall maintain the lawn, landscaping, and irrigation system on each Lot; provided, however, that each Lot Owner shall be responsible for any reasonably required replacement of the lawn and landscaping on his Lot, whether such replacement is required due to freezes or other acts of God, normal plant life expectancy, Lot Owner fault, or otherwise. All such maintenance and replacement shall be performed so that the lawn, landscaping, and irrigation system on each Lot are kept in good, safe, healthy, neat, and orderly appearance and condition, consistent with the Community Standards and the provisions of Article 6 of the Heron Creek Covenants. If a Lot Owner fails to perform promptly his replacement obligations hereunder, the Association may, in its sole discretion, take all actions authorized under Article 6.4 of the Heron Creek Covenants (with "maintenance" as used in such Article 6.4 being deemed to include "replacement"). As used in this Article 6.1, the term "landscaping" shall mean all plants (including all vegetation, shrubs, and trees, but excluding the lawns) that are actually planted in the ground and are not located within a home or a screened enclosure.

6.2 Maintenance of Other Lot Improvements. Subject to the provisions of Article 6.1, each Lot Owner shall maintain his home and all other Improvements on his Lot in good, safe, healthy, neat, and orderly appearance and condition, consistent with the Community Standards, the provisions of Article 6 of the Heron Creek Covenants, and other provisions of this Declaration. Any damage, deterioration, or evidence of wear and tear on the exterior of the home or other Improvements on a Lot which the Lot Owner is obligated to maintain pursuant to this Article 6 shall be repaired by the Lot Owner promptly.

6.3 Unimproved Lots. Each Lot that is an Unimproved Parcel shall be subject to Individual Parcel Assessments pursuant to Article 6.5 of the Heron Creek Covenants for the periodic mowing of the Lot by the Association.

6.4 Other Lot Owner Maintenance. Each Lot Owner shall comply with all applicable maintenance obligations set forth in Article 6.4 of the Heron Creek Covenants, except that the maintenance obligations set forth in Article 6.4.B of the Heron Creek Covenants shall not apply to the Lot Owners.

6.5 Neighborhood Common Areas. Except as otherwise provided by the terms of this Declaration or the Heron Creek Covenants, the Association shall maintain and keep in good repair all portions of the Subdivision's Neighborhood Common Areas.

6.6 Additional Association Maintenance. The Association may maintain other property and Improvements in the Subdivision in accordance with the provisions of Article 6 of the Heron Creek Covenants.

ARTICLE 7
NEIGHBORHOOD EXPENSES

7.1 General. Except for expenses that are classified as Individual Parcel Expenses under Article 7.5 of the Heron Creek Covenants, all expenses incurred by the Association pursuant to the provisions of this Declaration and the Heron Creek Covenants in connection with the management, maintenance, and administration of the Subdivision and the operation, maintenance, improvement, protection, management, and conservation of the Subdivision's Neighborhood Common Areas shall constitute Neighborhood Expenses of the Subdivision. As authorized by Article 7.3.B of the Heron Creek Covenants, the Subdivision's Neighborhood Expenses shall be comprised of two categories, namely: (a) Base Neighborhood Expenses, and (b) Supplemental Neighborhood Expenses.

7.2 Base Neighborhood Expenses. The Subdivision's Base Neighborhood Expenses shall include the following:

A. The cost of casualty insurance carried by the Association pursuant to Article 8.2.

B. All other costs identified in Article 7.3 of the Heron Creek Covenants that are applicable to the Subdivision and that are not included in the Subdivision's Supplemental Neighborhood Expenses.

7.3 Supplemental Neighborhood Expenses. The Subdivision's Supplemental Neighborhood Expenses are intended to cover certain services provided by or through the Association that will only benefit Lots on which construction of a home has been completed. The Subdivision's Supplemental Neighborhood Expenses shall be comprised of the following:

A. The cost of supplying water to the Lot Owners' respective irrigation systems for irrigation purposes in accordance with the provisions of Article 13, including the cost of operating, maintaining, and replacing wells, pumps, timers, valves, and main water supply lines to which the irrigation systems are connected.

B. The cost of maintaining the lawns, landscaping, and irrigation systems on the Lot Owners' respective Lots pursuant to Article 6.1.

ARTICLE 8
INSURANCE

8.1 Lot Owner's Insurance. Each Lot Owner shall carry casualty insurance on the insurable portions of his Lot Improvements in accordance with the provisions of Article 8.8 of the Heron Creek Covenants.

8.2 Association Insurance. The Association shall carry casualty insurance on the insurable portions, if any, of the Subdivision's Neighborhood Common Areas in accordance with the provisions of Article 8 of the Heron Creek Covenants.

ARTICLE 9
ASSESSMENTS

9.1 General. Each Lot shall be subject to Assessments in accordance with the provisions of Article 9 of the Heron Creek Covenants.

9.2 Neighborhood Assessments. The Subdivision's Neighborhood Assessments shall be allocated separately to the Base Neighborhood Expenses and the Supplemental Neighborhood Expenses. Neighborhood Assessments for the Base Neighborhood Expenses (and, if applicable, any Special Assessments supplementary thereto) shall be levied and paid in accordance with the provisions of Article 9 of the Heron Creek Covenants. Neighborhood Assessments for the Supplemental Neighborhood Expenses (and, if applicable, any Special Assessments supplementary thereto) shall be levied and paid in accordance with the provisions of Article 9 of the Heron Creek Covenants, subject, however, to the limitation that no Lot shall be liable for the payment of any Neighborhood Assessment (or, if applicable, any Special Assessment supplementary thereto) for the Supplemental Neighborhood Expenses prior to the issuance by the City of North Port of a certificate of occupancy for a home constructed on the Lot.

9.3 Lien of Assessments. Each Assessment levied by the Board against a Lot shall be secured by a lien in favor of the Association against the Lot and Improvements thereon in accordance with the provisions of Article 10 of the Heron Creek Covenants.

9.4 Working Capital Contribution. The Board may, in its discretion, require each Lot Owner who acquires his Lot directly from Developer to pay to the Association a one-time contribution (the "Working Capital Contribution") to be used by the Association solely for the payment of the Subdivision's Neighborhood Expenses. The amount of the Working Capital Contribution shall be as determined by the Board, but shall not exceed the then applicable annual Neighborhood Assessment for the Subdivision's Neighborhood Expenses.

9.5 Parcels Owned by Developer. Pursuant to Article 9 of the Heron Creek Covenants, Developer shall not be liable for the payment of any Assessments or expenses of the Association with respect to any Parcel or other property owned by Developer. The provisions of Article 9.15 of the Heron Creek Covenants are incorporated herein by reference.

ARTICLE 10
RESTRICTIONS

10.1 Residential Use. Except as otherwise provided herein, the Lots may be used for residential purposes and for no other purpose. No business or commercial building may be erected on any Lot, and no business, occupation, or profession may be conducted on any part thereof, except that: (a) a Lot Owner may conduct a Home Occupation on his Lot, if the Home Occupation is permitted by the Land Development Code without special permit approval or other special authorization; does not involve any outdoor activity other than ingress and egress; is not accompanied by the display of any exterior sign; complies with all other provisions of this Declaration, the Heron Creek Covenants, the Rules and Regulations, and the Community Standards; and is otherwise approved by the Association; and (b) a Lot Owner and his agents may show his Lot and Improvements thereon for sale or lease.

10.2 Homes. No building shall be erected or permitted to remain on any Lot other than one single-family home containing at least 1,600 square feet of air-conditioned living area (exclusive of open or screen porches, terraces, and garages), which home shall not exceed two stories in height.

10.3 Architectural Criteria. The home and all other Improvements constructed or installed upon a Lot shall comply with the Architectural Criteria.

10.4 Garages Required. No home shall be constructed on any Lot without provision for an enclosed garage adequate to house at least two full-size American automobiles. All garages must have doors that are maintained in a useful, working condition and that are operated by electric door openers.

Except when in actual use, garage doors must be kept closed. No garage shall be converted to other usage without the substitution of another garage.

10.5 No Trailers or Temporary Buildings. Except as may be reasonably necessary for Construction Work, no tents, trailers, vans, shacks, or temporary accessory buildings or structures shall be erected or permitted to remain on any Lot or on the Subdivision's Neighborhood Common Areas without the written consent of Developer. Upon completion of any Construction Work, any of the foregoing items shall be promptly removed.

10.6 Water and Sewer. All homes shall use and be connected to the central water and sewerage system made available by Developer. No well shall be drilled or utilized on any Lot, and no septic tank shall be installed, used, or maintained on any Lot, without the prior written approval of Developer and the approval of any applicable governmental authority. The water supplied by the Association for each Lot's lawn and landscaping irrigation system may include Reclaimed Water and is not for human consumption.

10.7 Setback Lines. No home or other structure (which shall be deemed to include a porch, veranda, garage, pool cage, lanai, screen enclosure, and the like) shall be erected or placed upon any part of a Lot such that any portion of the home or structure (excluding eaves or overhangs): (a) encroaches on any building setback line or buffer area denoted on the plat of the Subdivision; (b) encroaches on any specific easement reserved unto or granted by Developer pursuant to the provisions of this Declaration or the plat of the Subdivision; (c) is closer than 15 feet to the front Lot line, 6 feet to either side Lot line (15 feet if the side Lot line adjoins a street), or 10 feet to the rear Lot line; or (d) is constructed in violation of any setback requirements of the City of North Port then in effect. The setbacks described in Article 10.7(c) are minimum setbacks; the Architectural Committee may, in its sole discretion, require setbacks from particular front, side, or rear Lot lines greater than those specified in Article 10.7(c). Notwithstanding any of the above, construction of terraces, patios, low platforms or steps, decks, swimming pools, and similar low, open, unroofed and unscreened installations shall be permitted within any setback area, and construction of pool cages and screen enclosures shall be permitted within any rear setback area, provided that such construction: (1) does not violate any provisions of law; (2) in the opinion of the Architectural Committee, does not interfere with the exposure, view, or reasonable privacy of adjoining or facing properties; and (3) is otherwise approved by the Architectural Committee.

10.8 Driveway Construction. Each home shall have a driveway of stable and permanent construction and shall be at least 16 feet in width at the entrance to the garage. All driveways must be constructed of materials as set forth in the Architectural Criteria. Where curbs or swales are required to be disturbed for construction of driveway entrances, such curbs or swales shall be restored to their original grade and condition by the Lot Owner. No portion of a driveway shall be located within five feet of the side line of any Lot without the approval of the Architectural Committee.

10.9 Lampposts and Mailboxes. No lamppost, mailbox, paper box, or receptacle of any kind for use in the delivery of mail, newspapers, magazines, or similar material shall be erected on any Lot unless and until the size, location, and design of, and the type of material for, such lamppost, box, or receptacle shall have been approved by the Architectural Committee. Either Developer or the Architectural Committee may require the use of standard lampposts and mailboxes by all homes in the Subdivision.

10.10 Landscaping. Not later than 30 days following completion of construction of a home upon a Lot, such Lot shall be sodded and landscaped in accordance with a landscaping plan as required by the Architectural Criteria and approved by the Architectural Committee. Such landscaping plan shall comply with the requirements of the Heron Creek Covenants and, in addition, shall provide for the

planting on the Lot of a minimum of five trees (or such lesser number as may be approved by the Architectural Committee), each of which shall have a stem diameter of two and one-half inches or greater at 54 inches above the ground and be at least 12 feet in height. All lawns and landscaping shall extend to the pavement line in front of or adjacent to any home and to the normal water line for those Lots adjacent to lakes. An underground irrigation system of sufficient size and capacity to irrigate all sodded and landscaped areas shall be installed by the Lot Owner on each landscaped Lot.

10.11 Boats and Vehicles. No vehicle shall be parked in the Subdivision except on a paved driveway or inside a garage. No Restricted Vehicle shall be parked overnight in the Subdivision unless inside a garage. No maintenance or repair of any boat, watercraft, aircraft, or vehicle shall be permitted upon any Lot except within an enclosed garage. The restrictions on vehicles contained in this Article 10.11 shall not apply to vehicles or trailers utilized by builders in connection with Construction Work in the Subdivision.

10.12 Roadways. Except as Developer may otherwise approve in writing, and except as may be denoted on the plat of the Subdivision, no Lot or any portion thereof shall be opened, dedicated, or used as a street, road, pathway, or other thoroughfare, whether public or private.

10.13 Signs. No sign of any kind shall be displayed on any Lot except as follows:

A. Individual, ornamental house number and name plates may be displayed, provided their size, color, design, and location is approved by the Architectural Committee. Either Developer or the Architectural Committee may require the use of standard house number and name signage.

B. During the course of construction of a home on a Lot, a construction sign not exceeding four square feet in size identifying the builder may be displayed on the Lot. Such sign shall be promptly removed upon the issuance by the City of North Port of a certificate of occupancy for the home.

C. Other signs may be displayed if such signs are approved by Developer as to size, design, location, and content.

10.14 Animals. No horses, cattle, swine, goats, poultry, or other animal or fowl not customarily regarded as a household pet shall be kept on any Lot. No pet shall be permitted to roam outside except on a leash or within a fenced-in area. No pet may be kept on any Lot if, in the sole judgment of the Board, it is determined that the pet, due to its size, breed, past or present aggressiveness or viciousness, or other factors, is or is expected to be a source of excessive disturbance, annoyance, or danger to the Lot Owners or other Persons. The authority of the Board to prohibit, or direct the disposal of, any pet shall not be construed as imposing any duty on the Board to do so. The number of pets that a Lot Owner may keep on a Lot may be limited by the Rules and Regulations. Lot Owners having pets shall remove all pet droppings.

10.15 Trash. Lot Owners shall keep their Lots free of trash, refuse, junk, litter, and debris. Lot Owners shall place all garbage, trash, and other refuse in sanitary containers. Containers shall not be placed along any Neighborhood Road or Community Road except on the morning scheduled for refuse collection. Containers shall be removed promptly, along with any debris, after collection. Either Developer or the Architectural Committee may require the use of standard containers for the collection of garbage, trash, and other refuse.

10.16 Garage Sales. No garage sales, yard sales, or auctions shall be conducted on any Lot or on the Subdivision's Neighborhood Common Areas.

10.17 Solicitation. No Person shall distribute, post, or leave any paper, newspaper, brochure, leaflet, sample, item, or material on any lands, Improvements, or vehicles within the Subdivision unless it is distributed, posted, or left: (a) on a Lot at the request of the Lot Owner or pursuant to prior written authorization of the Association, which authorization shall not be given in any instance for commercial advertising material; or (b) pursuant to rights accorded by law.

10.18 Storm Protection. In the event of hurricane or tropical storm watches or warnings, a Lot Owner may board up his home or install protective shutters, but such protective measures shall be promptly discontinued once the threat of storm ceases.

10.19 Riparian Matters. No seawall, dock, boathouse, boat slip, davits, moorings, or piers shall be constructed upon or adjacent to any Lot. No Person shall swim in, operate any watercraft on, or otherwise use any portion of the Surfacewater Management System; provided, however, Lot Owners may fish in such portions of the Surfacewater Management System as may be designated for such purpose by the Association.

10.20 Usage of Lots and Neighborhood Common Areas. No Lot Owner shall interfere with the use of another Lot by the Lot Owner, occupant, or Person entitled to the use thereof or make use of any part of the Subdivision's Neighborhood Common Areas in such a manner as to abridge the equal rights of the other Lot Owners to their use and enjoyment.

10.21 Fences. No dog runs, animal pens, walls, or fences of any kind shall be permitted on any Lot except as approved by the Architectural Committee in accordance with the Architectural Criteria.

10.22 Window Coverings. Unless otherwise approved in writing by Developer, all windows on any home which are visible from the street, from other Lots, or from the Country Club Parcel shall have window coverings which have a white or off-white backing or which blend with the exterior color of the home, as determined in the sole discretion of the Architectural Committee. Reflective window coverings are prohibited. No awnings, canopies, or shutters shall be permanently installed on the exterior of any home unless first approved by the Architectural Committee.

10.23 Swimming Pools. In addition to the requirements of the Architectural Criteria, any swimming pool constructed on a Lot shall conform to the following requirements:

A. Composition shall be of a material thoroughly tested and accepted by the industry for such construction.

B. Any lighting of the pool or deck area shall be designed so as to buffer the surrounding homes from the lighting.

C. All pool equipment, such as pump and heater, shall be screened from view.

D. No aboveground pool shall be constructed.

10.24 Screening of Equipment, Storage Tanks, Garbage Containers, and Clothes Drying Areas. All garbage or trash containers shall be located underground or placed within totally enclosed or screened areas. No portion of any Lot shall be used as a drying or hanging area for laundry of any kind unless the area is completely shielded from public view by walls or fences. Such walls or fences must be attached to or adjoin the home, be compatible with the design and structure of the home, and not exceed six feet in height. Heating, ventilation, and air conditioning equipment located outside a home shall be

similarly screened from view and buffered by walls so as to reduce the noise level resulting from operation thereof. Oil and gas storage tanks shall be underground. Electrical service meters, water treatment tanks, and water storage tanks shall be screened from view.

10.25 Solar Collectors. Other than solar collectors installed by Developer, no solar collectors shall be installed on any Lot without the prior written consent of the Architectural Committee in accordance with the Architectural Criteria.

10.26 Alterations. Except as may otherwise be authorized by the terms of this Declaration or the Heron Creek Covenants or by the prior written consent of the Association or Developer, no Person other than Developer shall: (a) erect, install, or alter any Improvements on, or otherwise disturb the physical condition of, any portion of the Subdivision's Neighborhood Common Areas; or (b) erect, install, or alter any Improvements or property which the Association is required to maintain pursuant to the terms of this Declaration or the Heron Creek Covenants.

10.27 Unsightly Objects. No laundry, towels, blankets, garments, or unsightly objects shall be left or placed in any location on a Lot that is visible from the street, from other Lots, or from the Country Club Parcel.

10.28 Occupants Bound. All provisions of this Declaration governing the usage of a Lot or the conduct of the Lot Owner shall also apply to all occupants of the Lot and all family members, guests, and invitees of the Lot Owner. Each Lot Owner shall cause all such occupants, family members, guests, and invitees to comply with such provisions and shall be jointly and severally responsible with such occupants, family members, guests, and invitees for any violation by them of such provisions. The lease of any Lot shall be deemed to include a covenant on the part of the tenant to comply with and be fully bound by such provisions.

10.29 Wetland Areas. Each Lot Owner, at the time of construction of a home or other Improvements on his Lot, shall comply with the construction plans for the Surfacewater Management System pursuant to Chapter 40D-4, Florida Administrative Code, approved and on file with SWFWMD. No Lot Owner may construct or maintain any home or other Improvements on, or undertake or perform any activity in, any wetland, wetland buffer area, or upland conservation area described in any SWFWMD approved permit and plat of the Subdivision, unless prior approval is received from SWFWMD pursuant to Chapter 40D-4, Florida Administrative Code.

10.30 Heron Creek Covenants. In addition to the foregoing provisions of this Article 10, each Lot Owner shall comply with the restrictions and provisions set forth in the Heron Creek Covenants.

10.31 Additional Restrictions. Developer reserves the right to impose additional restrictions in the conveyance of title to any Lot, provided such restrictions are identified in the purchase agreement between Developer and the Lot Owner.

ARTICLE 11
RESUBDIVISION

11.1 Resubdivision. Except as may be otherwise approved by Developer prior to the Turnover (which approval shall be set forth in an amendment to this Declaration executed by Developer and recorded in the Public Records), no Lot or contiguous group of Lots shall be resubdivided or replatted in any manner.

11.2 Combination of Lots. No home shall be constructed or permitted to remain on any site that does not include at least one platted Lot according to the plat of the Subdivision. Any Lot may be combined with contiguous Lots or parts thereof to form a single building site. Except as specifically set forth in Article 9.2.A(4) of the Heron Creek Covenants: (a) in the event that more than one Lot is developed as a building site, the provisions of this Declaration shall apply thereto as if it were a single Lot; provided, however, that the combination of two or more Lots, or parts thereof, shall not alter the liability of any such Lot for its share of any Assessments other than Individual Parcel Assessments; and (b) if a Lot is divided and the parts thereof added to other Lots, the share of such Lot for Assessments other than Individual Parcel Assessments shall be prorated among such other Lots on the basis of square footage.

ARTICLE 12
EASEMENTS

12.1 Reserved by Developer. Developer hereby reserves for the benefit of itself, its successors and assigns, perpetual easements for the installation, construction, repair, maintenance, and replacement of lines, pipes, wells, drains, cables, equipment, apparatus, structures, roads, driveways, and other Improvements for private or public utility services of all kinds, including without limitation, water, sewer, drainage, irrigation, fire protection, electricity, telephone, cable television, and trash disposal, over, under, through, and across: (a) all utility and drainage easement areas shown on the plat of the Subdivision; and (b) that portion of each Lot lying within 10 feet of any abutting Neighborhood Road or Community Road.

12.2 Maintenance. The easement area of each Lot and all Improvements located within it shall be maintained continuously by the Lot Owner, except for those Improvements for which the Association, utility company, or public authority is responsible. No drainage easement, swale, canal, lake, or pond may be obstructed, filled in, or altered without Developer's written approval. Any walls, fences, paving, landscaping, or other Improvements constructed, placed, or planted by a Lot Owner over the easement area of his Lot may be removed by Developer or other Person entitled to use the easement if required for the installation or maintenance of Improvements or facilities related to the purpose for which the easement was reserved or granted; provided, however, if Developer or such other Person should in the exercise of its easement rights disturb any grass, soil, paving, or other Improvements, Developer or such other Person, as the case may be, shall restore the same as nearly as practicable to its condition prior to the disturbance.

ARTICLE 13
IRRIGATION

13.1 Irrigation Water Agreement. To assure to the Association and the Lot Owners access to water for irrigating the lawns and landscaping within the Subdivision, the Association, on behalf of the Lot Owners, has entered into the Irrigation Water Agreement with Holdings and Developer. Title to each Lot shall be subject to, and all Lot Owners will be bound by, the provisions of the Irrigation Water Agreement.

13.2 Irrigation Lake. Under the terms of the Irrigation Water Agreement, the Association has the right to withdraw water from an irrigation lake owned by Holdings for the purpose of distributing the water throughout the Subdivision for the irrigation of lawns and landscaping installed on the Lots. Among other things, Holdings has the right to change the location of the irrigation lake and to add Reclaimed Water to the irrigation lake. No Person shall have any claim against Holdings, Developer, or the Association related to Holdings' exercising any of such rights.

13.3 Irrigation Water System. The main irrigation water supply lines installed by Developer within the Subdivision and all other equipment and components used for the withdrawal and distribution of irrigation water through the Subdivision will be owned and maintained by the Association, subject to certain usage rights of Developer, all as more particularly set forth in the Irrigation Water Agreement. Such lines, equipment, and components shall be the personal property of the Association, and no part thereof shall be considered a fixture to the Subdivision property. The Association and Developer shall have nonexclusive easements over the Subdivision property for the exercise of their respective rights and obligations under the Irrigation Water Agreement.

13.4 License Fees. The Association shall be responsible for the payment to Holdings of monthly license fees for the Association's right to withdraw water from the irrigation lake in accordance with the provisions of the Irrigation Water Agreement. The initial term of the Irrigation Water Agreement expires on December 31, 2020; the term may be extended in accordance with the provisions of the Irrigation Water Agreement.

ARTICLE 14
VARIANCES

Developer hereby reserves the right, with respect to any Lot, to vary those conditions, restrictions, limitations, and agreements herein set forth which refer to setback lines, square footage content, areas of improvement, easements, construction of Improvements, landscaping, and signs, and any such variance shall be evidenced by written instrument executed by Developer. Such variance shall not constitute a waiver of any such condition, restriction, limitation, or agreement as to the remaining Lots, and the same shall remain fully enforceable against all Lots other than the Lot where such variance is permitted.

ARTICLE 15
RIGHTS OF DEVELOPER

15.1 Development. At the time of recording of this Declaration, development and construction of the Lots and Improvements in the Subdivision have not been completed. Developer reserves all rights and easements necessary or desirable with respect to the Subdivision to complete such development and construction and to effect the sale or lease of all the Lots. Inasmuch as the completion of such development, construction, sales, and leasing is essential to the establishment and welfare of the Subdivision and the Lot Owners, no Lot Owner shall do anything to interfere with the development, construction, sales, or leasing activities of Developer. Without limiting the generality of the foregoing, nothing in this Declaration, the Articles of Incorporation, or Bylaws shall be construed to:

A. Prevent Developer or any Approved Builder, or their contractors or subcontractors, from taking whatever steps they determine to be necessary or desirable to effect the completion of the development of the Subdivision, including, without limitation, the alteration of construction plans and designs as Developer or any Approved Builder deems advisable in the course of such development (all models, sketches, and artists' representations showing plans for future development of the Subdivision being subject to modification by Developer or an Approved Builder at any time and from time to time without notice).

B. Prevent Developer or any Approved Builder, or their contractors or subcontractors, from erecting, constructing, and maintaining within the Subdivision such structures as may be reasonably necessary for the development of the Subdivision, the construction of Improvements therein, and the sale and leasing of the Lots.

C. Prevent Developer from replatting any contiguous group of Lots or Common Areas owned by Developer, provided such replatting is done pursuant to an amendment to this Declaration executed by Developer and recorded in the Public Records prior to the Turnover.

Notwithstanding any provision hereof to the contrary, Developer and Approved Builders shall have the express right to construct, maintain, and carry on such offices, structures, facilities and activities within the Subdivision as, in the sole opinion of Developer, may be reasonably necessary, convenient, or appropriate to the construction of Improvements or sale or leasing of Lots and Parcels, including, but not limited to, administrative offices, field construction offices, construction storage facilities, parking facilities, signs, model homes, and sales offices. The right to construct, maintain, and carry on such facilities and activities shall specifically include the right to use any property owned by Developer, an Approved Builder, or the Association as administrative offices, sales offices, and models.

15.2 Assignment. Developer may from time to time assign any or all of its rights, title, interest, easements, powers, duties, obligations, and privileges reserved hereunder to the Association or to any other Person.

15.3 Exercise of Developer's Rights. The rights of Developer enumerated in this Article 15 or elsewhere in this Declaration are for the benefit of Developer and may be exercised, waived, released, or assigned, in whole or in part, in Developer's sole discretion. No Person shall have any cause of action against Developer on account of Developer's exercise, manner of exercise, failure to exercise, waiver, release, or assignment, in whole or in part, of any of such rights.

ARTICLE 16
RIGHTS OF INSTITUTIONAL MORTGAGEES

The termination of the provisions of this Declaration by approval of the Lot Owners pursuant to Article 19.2, and any amendments to the provisions of this Declaration by approval of the Lot Owners pursuant to Article 20(a) materially and adversely affecting the rights or interests of Institutional Mortgagees, shall require the written consent of Institutional Mortgagees holding at least 51 percent of all mortgages held by Institutional Mortgagees. Such consent shall not be unreasonably withheld.

ARTICLE 17
WARRANTIES

Except as Developer may otherwise expressly provide by written contract, **THE CONSTRUCTION, DEVELOPMENT, AND SALE BY DEVELOPER OF ANY LOT OR OTHER PROPERTY OR IMPROVEMENTS IN THE SUBDIVISION IS WITHOUT WARRANTY, AND NO WARRANTIES OF FITNESS, HABITABILITY, OR MERCHANTABILITY AS TO ANY PORTION OF THE SUBDIVISION OR IMPROVEMENTS CONSTRUCTED BY DEVELOPER THEREON OR IN CONNECTION THEREWITH SHALL BE IMPLIED. EXCEPT AS DEVELOPER MAY OTHERWISE EXPRESSLY PROVIDE BY WRITTEN CONTRACT, DEVELOPER HEREBY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY COMMON LAW IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, HABITABILITY, AND CONFORMITY OF ANY IMPROVEMENTS WITH PLANS AND SPECIFICATIONS FILED WITH ANY GOVERNMENTAL AUTHORITY. DEVELOPER MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE EXISTENCE OR LEVELS OF ODORS, NOXIOUS FUMES, LOW FREQUENCY ELECTROMAGNETIC FIELDS, RADON OR ANY OTHER POLLUTANT WITHIN THE SUBDIVISION OR WITH RESPECT TO ANY PROPERTY OR IMPROVEMENTS CREATED FOR, CONVEYED TO, DEDICATED TO, OR MADE**

AVAILABLE FOR THE USE OF THE ASSOCIATION OR ANY LOT OWNER PURSUANT TO THIS DECLARATION OR ANY OTHER INSTRUMENT.

ARTICLE 18
REMEDIES

18.1 Compliance by Lot Owners. Each Lot Owner shall comply, and shall cause the Lot Owner's family, guests, tenants, and invitees to comply, with the restrictions and covenants set forth in this Declaration.

18.2 Enforcement. Upon failure of a Lot Owner to comply with the provisions of Article 18.1, the Association may, in the sole discretion of the Board and in addition to all other remedies allowed by law: (a) pursue the remedies set forth in Article 18.2 of the Heron Creek Covenants; and (b) impose a Fine upon the Lot Owner pursuant to the provisions of Article 18.3 of the Heron Creek Covenants. In any action in which the Association is the prevailing party, the Association shall be entitled to recover its costs and Attorney's Fees.

18.3 Mediation. No Lot Owner or other Person bound by this Declaration shall commence or prosecute any judicial or administrative proceeding against the Association or Developer involving any matter related to this Declaration without first submitting the issue to which such proceeding relates to non-binding mediation in accordance with the provisions of Article 18.5 of the Heron Creek Covenants.

ARTICLE 19
DURATION

19.1 Covenants to Run with the Title to the Land. The provisions of this Declaration, as amended and supplemented from time to time as herein provided, shall be deemed to run with the title to the property subject hereto and shall remain in full force and effect until terminated in accordance with the provisions of Article 19.2 or otherwise according to the laws of the State of Florida.

19.2 Term. The provisions of this Declaration shall be binding upon all Lot Owners and shall continue in full force and effect for a period of 50 years from the date of recording of the Heron Creek Covenants in the Public Records, after which time they shall be deemed to be automatically extended for successive periods of 10 years each unless prior to the commencement of any such 10-year period: (a) the termination of this Declaration is approved by Lot Owners owning at least 75 percent of the Lots in the Subdivision and by Institutional Mortgagees as specified in Article 16; and (b) a written instrument certifying that such approval has been obtained is signed by the president and secretary of the Association and recorded in the Public Records. The termination of this Declaration shall not terminate any easement rights then existing in favor of any Person by virtue of the provisions of this Declaration, it being the intent hereof that all such easement rights shall survive a termination of this Declaration.

ARTICLE 20
AMENDMENTS

This Declaration may be amended at any time and from time to time upon: (a) the approval of Lot Owners owning at least two-thirds of the Lots in the Subdivision; and (b) the recording in the Public Records of an amendatory instrument executed by the president and secretary of the Association certifying that such approval has been obtained; provided, however, that no amendment shall be effective prior to the Final Development Date without Developer's express written joinder and consent. This Declaration may also be amended by Developer without the consent or joinder of any other Person at any time prior to the Turnover by the recording in the Public Records of an instrument for that purpose executed by Developer.

If the written consent of Institutional Mortgagees is required for an amendment pursuant to Article 16, the amendment shall not be effective without such consent. All amendments shall reasonably conform to the general purposes of this Declaration set forth herein.

ARTICLE 21
MISCELLANEOUS

21.1 Governing Law. The construction, validity, and enforcement of the provisions of this Declaration shall be determined according to the laws of the State of Florida. The venue of any action or suit brought in connection with this Declaration shall be in Sarasota County, Florida.

21.2 Notices. Any notice authorized or required to be given to any Lot Owner, or such Lot Owner's representative, under the provisions of this Declaration shall be in writing and shall be deemed to have been properly given when mailed, postage prepaid, to the last known address of the Person who appears as the Lot Owner, or such Lot Owner's representative, on the records of the Association at the time of such mailing. Any notice authorized or required to be given to the Association under the provisions of this Declaration shall be in writing and shall be deemed to have been properly given when mailed, postage prepaid, to the address of the Association's principal office at the time of such mailing.

21.3 Waiver. Failure of Developer or the Association to insist upon strict performance of any provision of this Declaration with respect to any Lot Owner or property in the Subdivision shall not be deemed to be a waiver of such provision as to such Lot Owner or property unless Developer or the Association has executed in writing a waiver thereof. Any such written waiver of any provision of this Declaration by Developer or the Association with respect to any Lot Owner or property in the Subdivision shall not constitute a waiver of such provision as to any other Lot Owner or property.

21.4 Individual Liability. The obligations of Developer arising out of this Declaration or under any other instrument are corporate obligations and do not extend to the employees, officers, directors, shareholders, and limited partners of Developer or of any corporate partner of Developer. Such employees, officers, directors, shareholders, and limited partners shall have no individual liability in any action brought, or for any claim asserted, by the Association or by any Lot Owner in connection with the construction, development, or sale of any Lot or other property or Improvements within the Subdivision.

21.5 Invalidation. The invalidation of any provision of this Declaration by lawful court order shall not affect or modify any of the other provisions of this Declaration, which other provisions shall remain in full force and effect.

21.6 Usage. Whenever used herein, the singular number shall include the plural and the plural the singular, and the use of any gender shall include all genders. Titles of Articles, paragraphs, and subparagraphs of this Declaration are for convenience only and neither limit nor amplify the provisions of this Declaration.

IN WITNESS WHEREOF, Developer has caused this Declaration to be executed in its name the day and year first above written.

WITNESSES:

Signature of Witness

J. Michael Hartenstine

Print Name of Witness

Signature of Witness

Lizabeth Berg

Print Name of Witness

HERON CREEK ASSOCIATES, LTD.

By: Marsh Creek Communities, Inc.,
a Florida corporation, as General Partner

By: _____
H. Dieter Gebhard
As its Vice President

STATE OF FLORIDA
COUNTY OF SARASOTA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to take acknowledgments in the state and county named above, personally appeared H. Dieter Gebhard, as Vice President of Marsh Creek Communities, Inc., a Florida corporation and general partner of **HERON CREEK ASSOCIATES, LTD.**, a Florida limited partnership, to me known to be the person described in and who executed the foregoing instrument, and he acknowledged that he executed the foregoing instrument for and on behalf of the corporation and the partnership as such officer for the purposes therein expressed and that he was duly authorized by the corporation and the partnership to do so.

WITNESS my hand and official seal in the state and county named above this 29 day of September 1999.

Signature of Notary Public

(Notary Seal)

LIZABETH BERG
Notary Public, State of Florida
My comm. expires Oct. 4, 2002
Comm. No. CC 780522

Lizabeth Berg

Print Name of Notary Public

I am a Notary Public of the State of Florida, and my commission expires on 10-4-02.

JOINDER OF ASSOCIATION

HERON CREEK COMMUNITY ASSOCIATION, INC., a Florida corporation not for profit (the "Association"), hereby joins in and consents to the foregoing Declaration of Restrictions for Pine Meadows at Heron Creek and hereby agrees to the provisions thereof and the obligations imposed upon the Association therein.

IN WITNESS WHEREOF, the Association has caused this joinder to be executed in its name by its duly authorized officer this 28th day of September 1999.

HERON CREEK COMMUNITY ASSOCIATION, INC.

By: _____
Ronald A. York
As its President

STATE OF FLORIDA
COUNTY OF Sarasota

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to take acknowledgments in the state and county named above, personally appeared Ronald A. York, as President of Heron Creek Community Association, Inc., a Florida corporation not for profit, to me known to be the person described in and who executed the foregoing instrument, and he acknowledged that he executed the foregoing instrument for and on behalf of the corporation as such officer for the purposes therein expressed and that he was duly authorized by the corporation to do so.

WITNESS my hand and official seal in the state and county named above this 28th day of September 1999.

(Notary Seal)

ILYDA S. SPEARS
Notary Public - State of Florida
My Commission Expires Sep 14, 2001
Commission # CC680036

_____
Signature of Notary Public
Ilyda S. Spears
Print Name of Notary Public

I am a Notary Public of the State of Florida, and my commission expires on 9-14-01.

JMH-366397.6

OFFICIAL RECORDS INSTRUMENT # 1999132953 43 pgs

EXHIBIT "A"

PINE MEADOWS AT HERON CREEK
IRRIGATION WATER LICENSE AGREEMENT

THIS AGREEMENT is made and entered into this 27th day of September 1999 by and among **MARSH CREEK HOLDINGS, LTD.**, a Florida limited partnership ("Holdings"), **HERON CREEK ASSOCIATES, LTD.**, a Florida limited partnership ("Developer"), and **HERON CREEK COMMUNITY ASSOCIATION, INC.**, a Florida corporation not for profit (the "Association").

RECITALS:

A. Developer is developing a neighborhood community known as Pine Meadows at Heron Creek (the "Pine Meadows Neighborhood") within Heron Creek, Unit I, a subdivision in Sarasota County, Florida, as per plat thereof recorded in Plat Book 40, page 47, Public Records of Sarasota County, Florida (the "Subdivision"). The Pine Meadows Neighborhood will consist of all lots within Block A of the Subdivision.

B. The Pine Meadows Neighborhood will be part of a larger community known as Heron Creek, which Developer intends to develop for residential, recreational, commercial, and other uses and purposes.

C. Developer and Holdings have recorded in the Public Records of Sarasota County, Florida, as Official Records Instrument #1999127212, a "Declaration of Covenants, Conditions, and Restrictions for Heron Creek" (the "Heron Creek Covenants"), which instrument establishes a general plan of restrictions for the administration, maintenance, preservation, use, and enjoyment of all lands within the Heron Creek community.

D. Developer contemplates recording a "Declaration of Restrictions for Pine Meadows at Heron Creek" (the "Pine Meadows Restrictions"), which will make the Pine Meadows Neighborhood subject to the Heron Creek Covenants, identify the Pine Meadows Neighborhood as a "Neighborhood" within the Heron Creek community, and establish more specific covenants and conditions concerning the development, improvement, and usage of the Pine Meadows Neighborhood property for the benefit and protection of all Pine Meadows Neighborhood property owners.

E. A lawn and landscaping irrigation system will be required for each lot in the Pine Meadows Neighborhood. The irrigation system for each lot will be connected to a main irrigation water supply line installed by Developer.

F. The Association will be responsible for the management and operation of the Pine Meadows Neighborhood in accordance with the Heron Creek Covenants and the Pine Meadows Restrictions. The Association's responsibilities will include the provision of irrigation water to the Pine Meadows Neighborhood lot owners' respective irrigation systems and the operation, maintenance, and replacement of pumps, timers, valves, and main water supply lines to which such irrigation systems are connected.

G. Developer has constructed a lake (the "Irrigation Lake") within the Heron Creek community to collect water for irrigation purposes. The Irrigation Lake is situated along Sumter Boulevard in the approximate location shown on Exhibit "A" attached hereto. Developer has also constructed or will construct various wells, well lines, reuse water mains, pumps, intakes, and related equipment and apparatus to supply water to the Irrigation Lake and to allow removal of such water for irrigation purposes.

H. Pursuant to Articles 5.10 and 5.11 of the Heron Creek Covenants, Holdings has sole ownership and control of the Irrigation Lake and the Surfacewater Management System of Heron Creek, and no use of the water in the Irrigation Lake or any of the Surfacewater Management System's lakes or ponds may be made by the Association or any other person without Holdings' prior written consent, which consent may be withheld in Holdings' sole and absolute discretion.

I. The Association desires to fulfill its irrigation responsibilities with respect to the Pine Meadows Neighborhood by use of the waters of the Irrigation Lake. Holdings is willing to grant the Association a license to withdraw water from the Irrigation Lake on the terms and conditions set forth below. The Association and Developer are agreeable to such terms and conditions.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

1.1 Certain Defined Terms. As used in this Agreement, the following capitalized terms shall have the following meanings respectively (such meanings to be applicable to both the singular and the plural form of the terms defined):

A. "Applicable Percentage" shall mean, with respect to any calendar year, the greater of the following two ratios:

(1) The ratio of (a) the level of the Consumer Price Index for the month of September immediately preceding such calendar year, to (b) the level of the Consumer Price Index for the month of September one year earlier.

(2) The ratio of (a) the amount charged by the City of North Port Utilities Department for the first 1,000 gallons of potable water as of the first day of September immediately preceding such calendar year, to (b) the amount charged by the City of North Port Utilities Department for the first 1,000 gallons of potable water as of the first day of September one year earlier.

B. "Consumer Price Index" shall mean the Consumer Price Index for All Urban Consumers, U.S. City Average: All Items (1982-84 = 100), published by the U.S. Bureau of Labor Statistics of the U.S. Department of Labor or, in the event such index ceases to be published by the U.S. Bureau of Labor Statistics, then such comparable commodity index then in existence as is reasonably designated by Holdings.

C. "Heron Creek Covenants" shall have the meaning set forth in Recital C.

D. "Irrigation Lake" shall have the meaning set forth in Recital G.

E. "Irrigation System" shall have the meaning set forth in Article 4.1.

F. "Landscaping" shall mean all lawns and landscaping presently or hereafter installed on the Lots.

G. "Lot" shall mean a platted parcel within the Pine Meadows Neighborhood on which a single dwelling unit is constructed or is intended to be constructed.

H. "Reclaimed Water" shall mean water that has received a degree of treatment and basic disinfection at a wastewater treatment facility but does not qualify as potable water under applicable governmental regulations.

I. "Subdivision" shall have the meaning set forth in Recital A.

J. "Pine Meadows Neighborhood" shall have the meaning set forth in Recital A.

K. "Pine Meadows Restrictions" shall have the meaning set forth in Recital D.

L. "Withdrawal Point" shall have the meaning set forth in Article 4.4.

1.2 Other Terms. All capitalized terms used in this Agreement which are not defined in Article 1.1 shall have the meaning set forth in the Pine Meadows Restrictions.

ARTICLE 2
GRANT OF LICENSE

2.1 License. Holdings hereby grants to the Association, for the term of this Agreement and on the conditions set forth herein, a nonexclusive license to withdraw water from the Irrigation Lake for the sole purpose of irrigating the Landscaping. The Association's right to withdraw water pursuant to this license shall be limited to water quantities as are reasonably necessary to irrigate the Landscaping. The Association shall not withdraw water pursuant to this license more frequently or in greater volume than is reasonably necessary to provide proper irrigation for the Landscaping. In no event shall the Association withdraw water pursuant to this license for any use other than the irrigation of the Landscaping. The rights of the Association pursuant to this Article 2.1 are supplemental to the rights the Association may have pursuant to any other similar license granted to the Association by Holdings, and the provisions of this Article 2.1 shall not be construed to limit the rights of the Association pursuant to any other such license.

2.2 Reserved Rights. The Association's right to withdraw water from the Irrigation Lake pursuant to Article 2.1 shall not be construed in any way to limit or modify Holdings' rights under the Heron Creek Covenants or the Pine Meadows Restrictions to control, and designate the use of, the waters of the Irrigation Lake or any portion of the Surfacewater Management System. Without limiting the foregoing, Holdings reserves the right, and nothing herein shall be deemed to limit or affect Holdings' right, to: (a) unilaterally change the location or designation of the Irrigation Lake or the Withdrawal Point; (b) in accordance with applicable governmental regulations, add Reclaimed Water to the Irrigation Lake for any purpose, including but not limited to purposes related to irrigation of the Pine Meadows Neighborhood (whether or not pursuant to the terms of this Agreement), other lands within Heron Creek, the Country Club Parcel, or other lands outside of Heron Creek; (c) grant similar nonexclusive licenses to the Association for the benefit of other Neighborhoods within Heron Creek; (d) grant nonexclusive licenses to other persons or entities to use the waters of the Irrigation Lake or the Surfacewater Management System for the benefit of other properties, whether or not located within Heron Creek; (e) grant nonexclusive licenses to other persons or entities for the retention of stormwater or Reclaimed Water within the Irrigation Lake or the Surfacewater Management System for the benefit of other properties, whether or not located within Heron Creek; (f) increase or decrease the water level of the Irrigation Lake or any lakes within the Surfacewater Management System from time to time for any purpose and by any means, including the installation, control, and use of drainage control devices and apparatus; additional lakes, ponds, swales, culverts, inlets, and outfalls; wells and pumps; Reclaimed Water; and related facilities; and (g) remove or withdraw all or any part of the water from the Irrigation

Lake or any portion of the Surfacewater Management System for any purpose, including but not limited to maintenance, compliance with governmental regulations, or extraction of fill dirt. The grant by Holdings of additional licenses, if any, concerning the Irrigation Lake or the Surfacewater Management System shall be on such terms and conditions as Holdings may approve, in its sole and absolute discretion. The right of Holdings to grant additional licenses with respect to the Irrigation Lake or the Surfacewater Management System shall not be construed as an obligation to do so. The rights of Holdings set forth in this Agreement are for the sole benefit of Holdings and may be exercised, waived, released, or assigned, in whole or in part, in Holdings' sole and absolute discretion. No person shall have any cause of action against Holdings on account of Holdings' exercise, manner of exercise, failure to exercise, waiver, release, or assignment, in whole or in part, of any of such rights.

2.3 Water Quantities. The parties anticipate that the Irrigation Lake will have sufficient capacity to be a reliable and adequate source of water during the term of this Agreement for fulfillment of the Association's irrigation responsibilities with respect to the Pine Meadows Neighborhood. The parties acknowledge, however, that due to many factors, such as natural causes, environmental conditions, Acts of God, governmental regulations, Holdings' exercising any of its reserved rights referenced in Article 2.2, and the actual or potential use of the waters of the Irrigation Lake for the benefit of other properties, the volume of water in the Irrigation Lake from time to time may be insufficient to satisfy the Association's reasonable water quantity requirements for the irrigation of the Landscaping. Holdings makes no assurance or warranty that the volume of water in the Irrigation Lake will at all times be sufficient to satisfy the Association's reasonable water quantity requirements for the irrigation of the Landscaping. The parties acknowledge that governmental regulations may from time to time require the Association to suspend the withdrawal of water from the Irrigation Lake. Special provisions concerning abatement of the monthly license fees in the event of insufficient Irrigation Lake water volume are set forth in Article 3.3. Special provisions concerning termination of this Agreement in the event of protracted insufficient Irrigation Lake water volume are set forth in Article 5.2.

2.4 Reclaimed Water. Pursuant to the provisions of Article 2.2, Holdings may, in its sole and absolute discretion and without notice, add Reclaimed Water to the Irrigation Lake or any portion of the Surfacewater Management System.

ARTICLE 3
LICENSE FEES

3.1 Landscaping. The Association's responsibility to irrigate the Landscaping will commence as homes are constructed on the Lots.

3.2 Lot Fees. In consideration of the license granted herein by Holdings to the Association for water to be used by the Association for the irrigation of the Landscaping, the Association shall pay to Holdings a monthly license fee per Lot in accordance with the following provisions:

A. The monthly license fee shall be based upon the number of Lots that have been issued Certificates of Occupancy by the City of North Port for homes constructed thereon. With respect to each Lot, payment by the Association to Holdings of the monthly license fee shall commence upon the issuance by the City of North Port of a Certificate of Occupancy for a home constructed on the Lot. Monthly license fees shall be payable in advance on the first day of each month. If a Certificate of Occupancy for a home constructed on a Lot is issued by the City of North Port after the first day of the month, the monthly license fee for such month shall be prorated as of the date of the Certificate of Occupancy, and such prorated amount shall be payable by the Association to Holdings on the first day of the following month.

B. The monthly license fee shall be $17.84 per Lot until January 1, 2001. Commencing January 1, 2001, the monthly license fee per Lot shall be increased on January 1 of each calendar year to an amount equal to the amount of the monthly license fee for the prior calendar year multiplied by the Applicable Percentage for the current calendar year, which amount shall remain in effect until the following January 1. Notwithstanding the foregoing, in no event shall the monthly license fee per Lot payable during any calendar year be less than the monthly license fee per Lot payable during the prior calendar year.

3.3 Abatement. If, by reason of natural causes, environmental conditions, acts of God, governmental regulations, Holdings' exercising any of its reserved rights referenced in Article 2.2, water withdrawal for use on other properties, or otherwise, the water volume of the Irrigation Lake should at any time be insufficient to permit withdrawal by the Association of an adequate quantity of water to irrigate the Landscaping in a proper manner, the monthly license fee set forth in Article 3.2 shall be equitably abated during the period that the water volume of the Irrigation Lake remains insufficient. Such abatement shall terminate once the water volume of the Irrigation Lake is restored to a level sufficient to permit withdrawal by the Association of an adequate quantity of water to irrigate the Landscaping in a proper manner. In the event the Association is unable to withdraw any water at all from the Irrigation Lake due to insufficient water volume or any other cause outside the control of the Association, including a suspension of such withdrawal rights on account of governmental regulatory requirements, the monthly license fee set forth in Article 3.2 shall be fully abated until the Association is again able to withdraw water from the Irrigation Lake.

ARTICLE 4
IRRIGATION SYSTEM

4.1 Installation. Developer has installed a pump station adjacent to the Irrigation Lake for the withdrawal of water from the Irrigation Lake. The approximate location of the pump station is shown on the sketch attached hereto as Exhibit "B." Developer has also installed a p.v.c. main line pipe leading from the pump station to the Subdivision. The approximate location of the p.v.c. main line pipe is shown on the sketch attached hereto as Exhibit "C." The main irrigation water supply lines installed by Developer within the Subdivision to serve the Pine Meadows Neighborhood are connected to the p.v.c. main line pipe. The pump station, p.v.c. main line pipe, and main irrigation water supply lines within the Subdivision, together with all timers, controllers, valves, and other accessory equipment and components comprising the main irrigation system for the Pine Meadows Neighborhood (not including the separate irrigation systems of the Lot owners on their respective Lots), are referred to herein as the "Irrigation System." If Holdings, pursuant to the provisions of Article 2.2, changes the location or designation of the Irrigation Lake or the Withdrawal Point, the phrase "Irrigation System" shall thereafter refer to all pump stations, pipes, junction boxes, irrigation controller stations, filters, irrigation water supply lines, timers, valves, and other accessory equipment and components utilized for supplying irrigation water to the Pine Meadows Neighborhood from the relocated or designated Irrigation Lake or Withdrawal Point (not including the separate irrigation systems of the Lot Owners on their respective Lots).

4.2 Ownership. Developer hereby transfers to the Association ownership of the Irrigation System, it being the intent of the parties that the Association shall have exclusive title to and control of all components of the Irrigation System, subject to all rights of Developer provided by the terms hereof. Such transfer of ownership shall not include an assignment of any rights to compensation that Developer may have pursuant to present or future contracts with third parties concerning installation of, or connection to, the Irrigation System, all such rights being expressly reserved by Developer. No part of the Irrigation System installed by Developer within the Subdivision shall be considered a fixture to the Lots or other property in the Subdivision, but shall be the personal property of the Association.

4.3 Developer's Usage Rights. Developer hereby reserves the following rights: (a) the nonexclusive right to use the Irrigation System for the purpose of irrigating other properties within Heron Creek, including, without limitation, the Country Club Parcel; (b) the right to grant similar nonexclusive usage rights to the Association for the benefit of other Neighborhoods within Heron Creek or to other persons or entities for the benefit of other properties, whether or not located within Heron Creek; (c) the right to relocate, modify, and replace the Irrigation System at any time, provided that no such action shall materially impair the distribution of irrigation water from the Irrigation Lake to the Lots; and (d) the right to connect additional pumps, pipes, water supply lines, controllers, timers, valves, and other accessory equipment and components to the Irrigation System to serve other properties within Heron Creek. The rights reserved by Developer pursuant to this Article 4.3 are supplemental to any other similar rights reserved by Developer pursuant to any other agreement, and the provisions of this Article 4.3 shall not be construed to limit the rights of Developer pursuant to any other such agreement. The grant by Developer of additional usage rights, if any, to the Irrigation System shall be on such terms and conditions as Developer may approve, in its sole and absolute discretion. The right of Developer to grant additional usage rights with respect to the Irrigation System shall not be construed as an obligation to do so. The rights of Developer set forth in this Agreement are for the sole benefit of Developer and may be exercised, waived, released, or assigned, in whole or in part, in Developer's sole and absolute discretion. No person shall have any cause of action against Developer on account of Developer's exercise, manner of exercise, failure to exercise, waiver, release, or assignment, in whole or in part, of any of such rights.

4.4 Withdrawal Point. Except as may be otherwise approved by Holdings in writing, which approval may be withheld in Holdings' sole and absolute discretion, the Association's right to withdraw water from the Irrigation Lake pursuant to this Agreement shall be limited to a single withdrawal point from the Irrigation Lake (the "Withdrawal Point"). The Withdrawal Point shall be as designated by Holdings. Holdings hereby designates the initial Withdrawal Point at the location as shown on Exhibit "B" attached hereto. Pursuant to the provisions of Article 2.2, Holdings shall have the right to unilaterally change, in its sole and absolute discretion and without notice, the designation of the Withdrawal Point.

4.5 Maintenance. The Association shall, at its expense, maintain the Irrigation System in good operating condition to assure water conservation and the proper supply of water to irrigate the Landscaping. If any part of the Irrigation System serves property that is not operated or maintained by the Association, the cost of maintaining such part shall be apportioned equitably between the Association and Developer (or Developer's designated successor or assignee) based on the respective average irrigation water quantities supplied to the property operated or maintained by the Association and to such other property.

ARTICLE 5
TERM OF AGREEMENT

5.1 Term. The term of this Agreement shall commence on the date of recording of the Pine Meadows Restrictions in the Public Records and shall continue in full force and effect (unless sooner terminated as provided herein) until December 31, 2020, after which time this Agreement shall be deemed to be automatically extended for successive periods of 10 years each unless prior to the commencement of any such 10-year period: (a) the termination of this Agreement is approved by Lot owners owning at least 75 percent of the Lots; and (b) a written instrument certifying that such approval has been obtained is signed by the president and secretary of the Association and recorded in the Public Records.

5.2 Termination. If, by reason of natural causes, environmental conditions, acts of God, governmental regulation, Holdings' exercising any of its reserved rights referenced in Article 2.2, water withdrawal for use on other properties, or otherwise, the water volume of the Irrigation Lake should for a

continuous period of six months be insufficient to permit withdrawal by the Association of an adequate quantity of water to irrigate the Landscaping in a proper manner, the Association may elect to terminate this Agreement, provided: (a) the termination of this Agreement is approved within the following three months by Lot owners owning at least 75 percent of the Lots; and (b) a written instrument certifying that such approval has been obtained is signed by the president and secretary of the Association and recorded in the Public Records.

ARTICLE 6
EASEMENTS

6.1 Association Easement. There is hereby granted to the Association a nonexclusive easement for the maintenance, repair, inspection, removal, and replacement of the Irrigation System, and for ingress and egress thereto; over such portion of the Subdivision and the lands lying between the Subdivision and the Withdrawal Point as is reasonably necessary for such purposes; provided, however, if the Association should in the exercise of its easement rights disturb any grass, soil, paving, or other improvements, the Association shall restore the same as nearly as practicable to its condition prior to the disturbance.

6.2 Developer Easement. There is hereby granted to and reserved by Developer a nonexclusive easement for the exercise of Developer's rights under Article 4.3 over such portion of the Subdivision and the lands lying between the Subdivision and the Withdrawal Point as is reasonably necessary for such purposes; provided, however, if Developer should in the exercise of its easement rights disturb any grass, soil, paving, or other improvements, Developer shall restore the same as nearly as practicable to its condition prior to the disturbance.

ARTICLE 7
HOLDINGS' WARRANTIES AND REPRESENTATIONS

In order to induce the Association and Developer to enter into this Agreement, Holdings hereby warrants and represents to the Association and Developer that:

7.1 Organization. Holdings is a limited partnership duly organized, validly existing, and in good standing under the laws of the State of Florida, is duly qualified to do business in every jurisdiction wherein such qualification is necessary, and has the prerequisite partnership power and authority to own its assets and transact the business in which it is engaged.

7.2 No Violations. The execution, delivery, and performance of this Agreement:

A. Are within the partnership powers of Holdings.

B. Have been duly authorized by all necessary partnership action.

C. Do not violate any provision of the partnership agreement of Holdings or of any law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award presently in effect and having applicability to Holdings.

D. Are not in conflict with and do not result in a breach of or constitute a default under any indenture, loan, or credit agreement, or any other agreement, lease, or instrument to which Holdings is a party or by which it or its properties may be bound or affected.

7.3 Execution. This Agreement has been duly executed and delivered by Holdings and constitutes the legal, valid, and binding obligation of Holdings enforceable against Holdings in accordance with its terms.

7.4 Compliance. Holdings is in compliance, to the best of the knowledge of Holdings, with all applicable laws, rules, regulations, writs, judgments, injunctions, decrees, determinations, or awards and is not materially in default under any indenture, agreement, lease, or instrument identified in Article 7.2.D.

ARTICLE 8
DEVELOPER'S WARRANTIES AND REPRESENTATIONS

In order to induce Holdings and the Association to enter into this Agreement, Developer represents and warrants to Holdings and the Association that:

8.1 Organization. Developer is a limited partnership duly organized, validly existing, and in good standing under the laws of the State of Florida, is duly qualified to do business in every jurisdiction where such qualification is necessary, and has the prerequisite partnership power and authority to own its assets and transact the business in which it is engaged.

8.2 No Violations. The execution, delivery, and performance of this Agreement:

A. Are within the partnership powers of Developer.

B. Have been duly authorized by all necessary partnership action.

C. Do not violate any provisions of the partnership agreement of Developer or of any law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award presently in effect and having applicability to Developer.

D. Are not in conflict with and do not result in a breach of or constitute a default under any indenture, loan, or credit agreement or any other agreement, lease, or instrument to which Developer is a party or by which it or its properties may be bound or affected.

8.3 Execution. This Agreement has been duly executed and delivered by Developer and constitutes the legal, valid, and binding obligation of Developer enforceable against Developer in accordance with its terms.

8.4 Compliance. Developer is in compliance, to the best of the knowledge of Developer, with all applicable laws, rules, regulations, writs, judgments, injunctions, decrees, determinations, or awards and is not materially in default under any indenture, agreement, lease, or instrument identified in Article 8.2.D.

ARTICLE 9
THE ASSOCIATION'S WARRANTIES AND REPRESENTATIONS

In order to induce Holdings and Developer to enter into this Agreement, the Association represents and warrants to Holdings and Developer that:

9.1 Organization. The Association is a corporation not for profit duly organized, validly existing, and in good standing under the laws of the State of Florida, is duly qualified to do business in

every jurisdiction where such qualification is necessary, and has the prerequisite corporate power and authority to own its assets and transact the business in which it is engaged.

9.2 No Violations. The execution, delivery and performance of this Agreement:

A. Are within the corporate powers of the Association.

B. Have been duly authorized by all necessary corporate action.

C. Do not violate any provisions of the articles of incorporation or bylaws of the Association or of any law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award presently in effect and having applicability to the Association.

D. Are not in conflict with and do not result in a breach of or constitute a default under any indenture, loan, or credit agreement or any other agreement, lease, or instrument to which the Association is a party or by which it or its properties may be bound or affected.

9.3 Execution. This Agreement has been duly executed and delivered by the Association and constitutes the legal, valid, and binding obligation of the Association enforceable against the Association in accordance with its terms.

9.4 Compliance. The Association is in compliance, to the best of the knowledge of the Association, with all applicable laws, rules, regulations, writs, judgments, injunctions, decrees, determinations, or awards and is not materially in default under any indenture, agreement, lease, or instrument identified in Article 9.2.D.

ARTICLE 10
GOVERNMENTAL REGULATIONS

10.1 Compliance with Laws. During the term of this Agreement, the Association shall comply in all material respects with the provisions of applicable laws and governmental regulations concerning the furnishing of irrigation water to the Pine Meadows Neighborhood.

10.2 Permits. If any governmental licenses or permits are required in conjunction with the furnishing of irrigation water to the Pine Meadows Neighborhood or the operation of the Irrigation System, the Association shall bear the responsibility and costs for obtaining and maintaining all such licenses and permits.

ARTICLE 11
HOLD HARMLESS

11.1 Improvements. Developer shall pay the installation cost of those components of the Irrigation System installed by Developer and shall hold Holdings and the Association harmless against all construction liens under Chapter 713, Florida Statutes, pertaining to such installation. The Association shall hold Holdings and Developer harmless against liability for all costs of repair and maintenance of the Irrigation System for which the Association is responsible under Article 4.5.

11.2 Injury. The Association shall fully defend and indemnify Holdings and Developer against any claim, liability, or expense, including attorneys' fees for trial and appellate proceedings, for personal injury or property damage arising from, related to, or connected with the operation of the

Irrigation System, except to the extent such claim, liability, or expense is due to the sole negligence of Holdings or Developer.

11.3 Liability. Holdings and Developer shall not be liable to the Association or any Lot owner for any inconvenience, loss, liability, damage, or consequential damages resulting from or indirectly caused by: (a) any defects or deficiencies in the installation, use, or operation of the Irrigation System; (b) any inability of the Association to withdraw water pursuant to Article 2 in sufficient quantities to irrigate the Landscaping adequately, whether such inability results from natural causes, environmental conditions, acts of God, power failures, governmental regulations, or otherwise; or (c) the physical characteristics of the water or Reclaimed Water, including mineral, chemical, or biological elements contained therein.

ARTICLE 12
LEGAL COSTS

If legal action is brought by a party to construe or enforce any provision of this Agreement, or for the breach thereof, the losing party shall pay the prevailing party's reasonable attorney's fees and court costs for both trial and appellate proceedings.

ARTICLE 13
NOTICES

Until changed in writing, all notices to be given under this Agreement shall be in writing and shall be sent by certified mail, return receipt requested, to the address of the parties specified.

Developer's address for notices shall be:

Heron Creek Associates, Ltd.
Suite 10
635 South Orange Avenue
Sarasota, Florida 34236

The Association's address for notices shall be:

Heron Creek Community Association, Inc.
3401 S. Sumter Boulevard
North Port, Florida 34287

Holdings' address for notices shall be:

Marsh Creek Holdings, Ltd.
Suite 10
635 South Orange Avenue
Sarasota, Florida 34236

ARTICLE 14
MISCELLANEOUS PROVISIONS

14.1 Complete Agreement. This Agreement contains all of the terms, conditions, covenants, and agreements between the parties. No modification of this Agreement shall be binding unless made in writing and signed by the parties hereto.

14.2 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their legal representatives, successors, and assigns.

14.3 Governing Law. This Agreement has been drawn and executed and shall be performed in the State of Florida, and all questions concerning this Agreement, and performance hereunder, shall be adjudged and resolved in accordance with the laws and within the courts of the State of Florida.

14.4 No Waiver. The failure of any party to insist upon strict performance of any obligation hereunder shall not be a waiver of such party's right to demand strict compliance of that or any other obligation in the future. No custom or practice of the parties at variance with the terms hereof shall constitute a waiver, nor shall any delay or omission of a party to exercise any rights arising from a default impair the party's rights as to such default or any subsequent default.

14.5 Captions. Titles or captions of articles and paragraphs contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provisions hereunder.

14.6 Number and Gender. Whenever required by the context, the singular number shall include the plural and the plural the singular, and any gender shall include all genders.

14.7 Recording. A copy of this Agreement shall be recorded in the Public Records as an exhibit to the Pine Meadows Restrictions.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed on the day and year first above written.

WITNESSES:

Signature of Witness
J. Michael Hardenstine
Print Name of Witness
Signature of Witness
Elizabeth Berg
Print Name of Witness

MARSH CREEK HOLDINGS, LTD.
By: Marsh Creek Properties, Inc.
a Florida corporation, as General Partner

By: _____
H. Dieter Gebhard
As its Vice President

Signature of Witness
J. Michael Hardenstine
Print Name of Witness
Signature of Witness
Elizabeth Berg
Print Name of Witness

HERON CREEK ASSOCIATES, LTD.
By: Marsh Creek Communities, Inc.
a Florida corporation, as General Partner

By: _____
H. Dieter Gebhard
As its Vice President

Signature of Witness

Charles M. Daly
Print Name of Witness

Signature of Witness

Lynda S. Spears
Print Name of Witness

HERON CREEK COMMUNITY ASSOCIATION, INC.

By: _____
Ronald A. York
As its President

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 29 day of September 1999 by H. Dieter Gebhard, as Vice President of Marsh Creek Properties, Inc., a Florida corporation and general partner of **MARSH CREEK HOLDINGS, LTD.**, a Florida limited partnership, on behalf of the corporation and the partnership. He is personally known to me or has produced _____ as identification. If no type of identification is indicated, the above-named person is personally known to me.

(Notary Seal)

LIZABETH BERG
Notary Public, State of Florida
My comm. expires Oct. 4, 2002
Comm. No. CC 780522

Signature of Notary Public

Lizabeth Berg
Print Name of Notary Public

I am a Notary Public of the State of Florida,
and my commission expires on 10-4-02.

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 29 day of September 1999 by H. Dieter Gebhard, as Vice President of Marsh Creek Communities, Inc., a Florida corporation and general partner of **HERON CREEK ASSOCIATES, LTD.**, a Florida limited partnership, on behalf of the corporation and the partnership. He is personally known to me or has produced _____ as identification. If no type of identification is indicated, the above-named person is personally known to me.

(Notary Seal)

LIZABETH BERG
Notary Public, State of Florida
My comm. expires Oct. 4, 2002
Comm. No. CC 780522

Signature of Notary Public

Lizabeth Berg
Print Name of Notary Public

I am a Notary Public of the State of Florida,
and my commission expires on 10-4-02.

STATE OF FLORIDA
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 28th day of September 1999 by Ronald A. York, as President of **HERON CREEK COMMUNITY ASSOCIATION, INC.**, a Florida corporation not for profit, on behalf of the corporation. He is personally known to me or has produced _____ as identification. If no type of identification is indicated, the above-named person is personally known to me.

Ilyda S. Spears
Signature of Notary Public

(Notary Seal)

ILYDA S. SPEARS
Notary Public - State of Florida
My Commission Expires Sep 14, 2001
Commission # CC680036

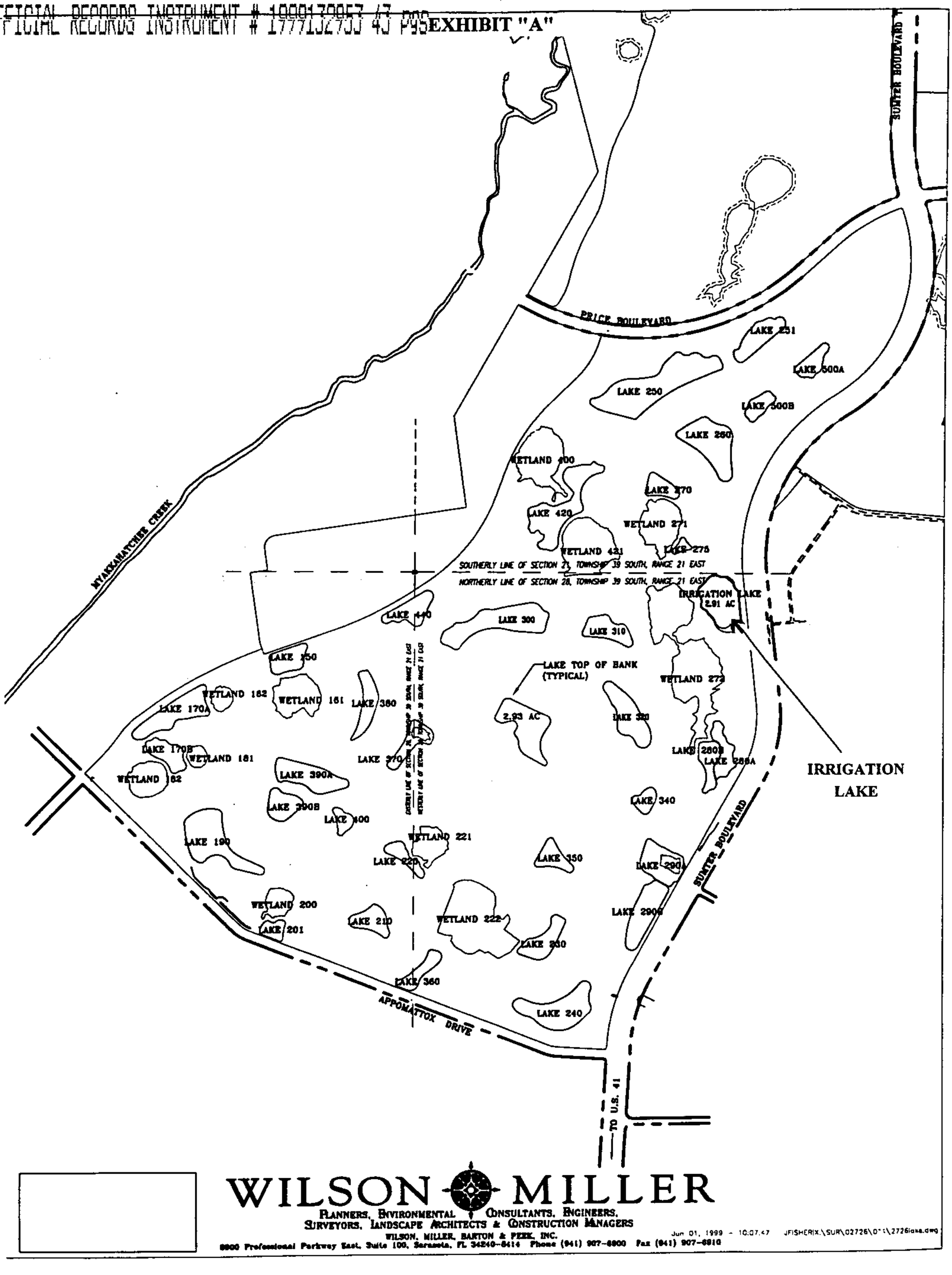
_____
Print Name of Notary Public

I am a Notary Public of the State of Florida,
and my commission expires on _____.

JMH-367185.4

OFFICIAL RECORDS INSTRUMENT # 1000170057 47 PGS
OFFICIAL RECORDS INSTRUMENT # 1777132733 43 PGS

EXHIBIT "A"



WILSON MILLER

PLANNERS, ENVIRONMENTAL CONSULTANTS, ENGINEERS,
SURVEYORS, LANDSCAPE ARCHITECTS & CONSTRUCTION MANAGERS

WILSON, MILLER, BARTON & PEEK, INC.
8900 Professional Parkway East, Suite 100, Sarasota, FL 34240-8414 Phone (941) 907-6900 Fax (941) 907-6910

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OFFICIAL RECORDS INSTRUMENT # 1999132953 43 PGS

EXHIBIT "B"

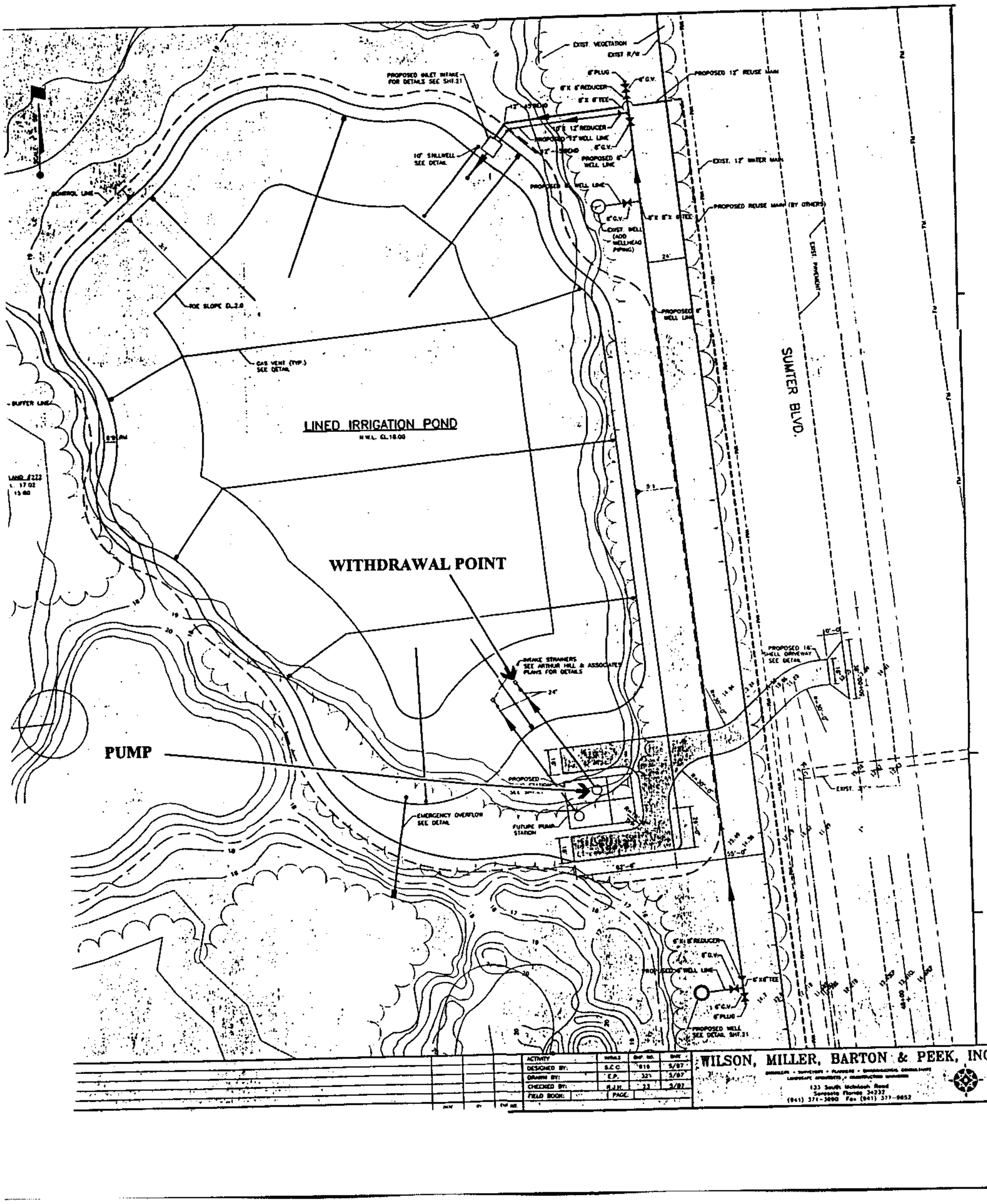
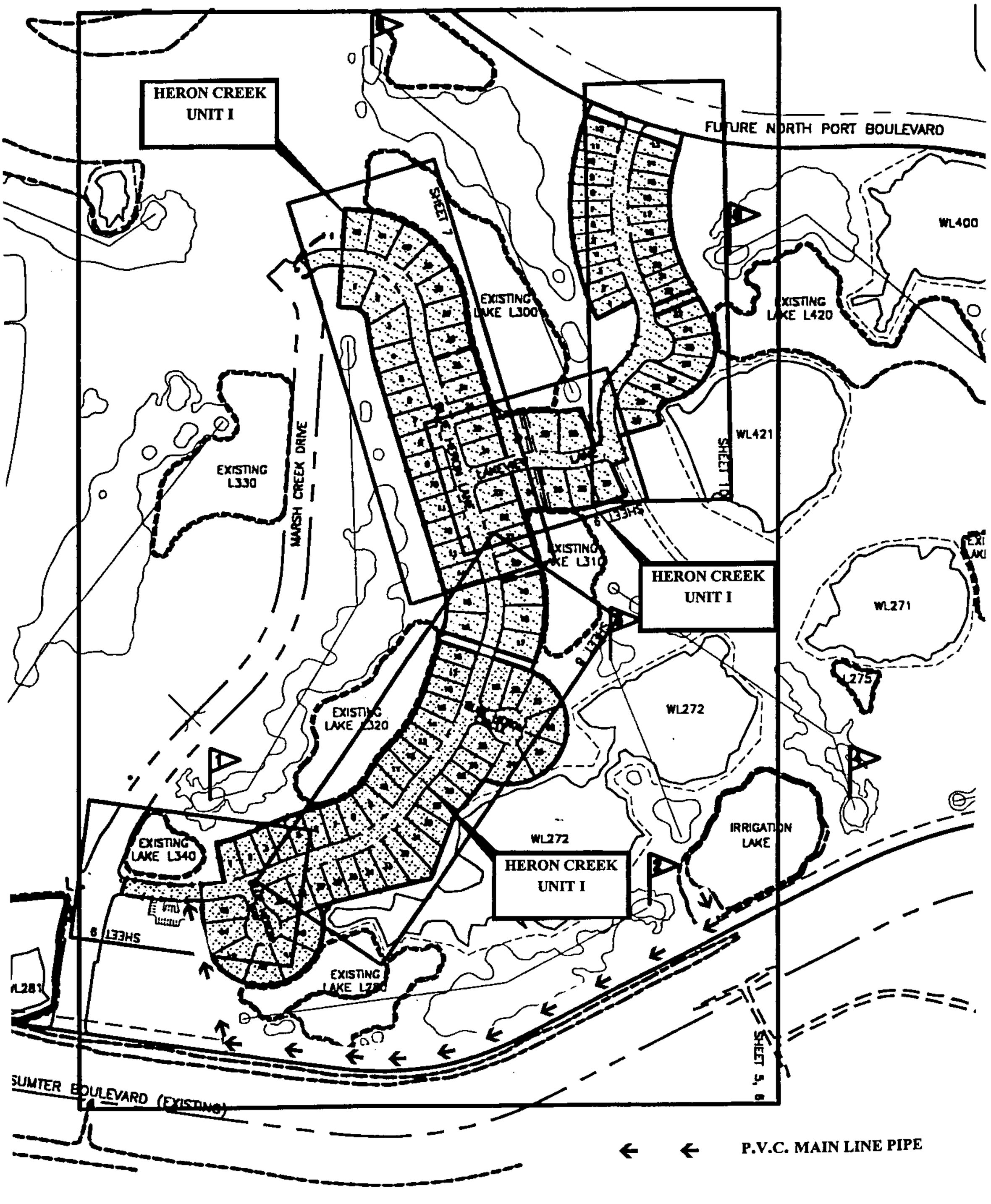


EXHIBIT "C"


HERON CREEK
UNIT I
FUTURE NORTH PORT BOULEVARD
SHEET 7
EXISTING
LAKE L300
WL400
EXISTING
LAKE L420
WL421
SHEET 7R
EXISTING
L330
MARSH CREEK DRIVE
L33HS
EXISTING
LAKE L310
HERON CREEK
UNIT I
WL271
L275
EXISTING
LAKE L320
WL272
IRRIGATION
LAKE
EXISTING
LAKE L340
WL272
HERON CREEK
UNIT I
SHEET 8
L33HS
EXISTING
LAKE L280
SHEET 5, 8
SUMTER BOULEVARD (EXISTING)
P.V.C. MAIN LINE PIPE