

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
THE RESERVE AT VICTORIA**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE RESERVE AT VICTORIA ("Declaration") is made and entered into this 26TH day of JANUARY, 2022, by AJP I of Volusia, LLC, a Florida limited liability company ("Declarant" or "Developer").

WITNESSETH

WHEREAS, Declarant owns all of the real property, located in Volusia County, Florida described in **Exhibit "A"** attached hereto and incorporated herein by reference ("Property"); and

WHEREAS, Declarant intends to organize and develop a homeowners association under Chapters 720 and 617, Florida Statutes, and, in connection therewith, create and incorporate THE RESERVE AT VICTORIA HOMEOWNERS' ASSOCIATION, INC., a Florida not-for-profit, as the homeowners association charged with maintenance, operation, preservation, and architectural control of the Property in order to promote the health, safety, and welfare of the residents of the Property; and

WHEREAS, Declarant intends to develop the Property as a phased residential development and may be improved with residences of different sizes and types; and

WHEREAS, the Property is subject City Ordinance No. 2020-31, adopting the amended and restated master development agreement for the Reserve at Victoria Planned Development, dated November 2, 2020, recorded in Book 7954, Page 4680, of the Public Records of Volusia County, Florida ("The Reserve at Victoria PD"); and

NOW THEREFORE, Declarant hereby declares that all of the Property shall be held, sold, conveyed, leased, mortgaged, and otherwise dealt with subject to the covenants, conditions, easements, restrictions, reservations, liens, and charges hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property. The covenants, conditions, easements, restrictions, reservations, liens, and charges set forth herein shall run with the Property; shall be binding upon all parties having and/or acquiring any right, title or interest in the Property, or in any part thereof; and shall inure to the benefit of each and every person or entity, from time to time owning or holding an interest in the Property.

ARTICLE I
DEFINITIONS

The terms used in this Declaration shall generally be given their natural, commonly accepted definitions, except as otherwise specified herein, and shall be liberally construed so as to effectuate the purposes herein expressed with respect to the efficient operation of the Association and the Property. The following capitalized terms shall be defined as set forth below.

- 1.01 **"Administrative Assessment"** shall mean and refer to Assessments levied in accordance with Article VI.
- 1.02 **"Ancillary Vehicles"** includes motorcycles, motor scooters, motorbikes, golf carts, boats, canoes, jet skis, kayaks, all-terrain vehicles, and similar conveyances.

- 1.03 **“Architectural Review Committee” or “ARC”** shall mean and refer to the committee established and described in Article VII.
- 1.04 **“Articles”** shall mean and refer to the Articles of Incorporation of the Association, attached hereto as **Exhibit “B”**, as they may exist and/or be amended from time to time.
- 1.05 **“Association”** shall mean and refer to The Reserve at Victoria Homeowners’ Association, Inc., a Florida not-for-profit, its successors and assigns.
- 1.06 **“Base Assessment”** shall mean and refer to Assessments levied on all Lots subject to assessment under Article VI to fund Common Expenses for the general expenses and operation of the Association.
- 1.07 **“Board”** shall mean and refer to the Board of Directors of the Association.
- 1.08 **“Bylaws”** shall mean and refer to the Bylaws of the Association, as they may exist and/or be amended from time to time.
- 1.09 **“City”** shall mean the City of DeLand, a Florida municipal corporation.
- 1.10 **“Commercial Vehicles”** includes trucks, vans and mini vans (other than those deemed Passenger Vehicles, as defined in Article I), commercial or public service vehicles (meaning those that are not primarily designed and used for passenger transportation for personal or family purposes), and such other vehicles, which by design, nature, size, use or appearance, the Board determines from time to time to be of a commercial nature.
- 1.11 **“Common Area”** shall mean and refer to all real property, together with any and all improvements from time to time located thereon, owned by the Association for the common use and enjoyment of the Owners. Nothing herein shall be construed so as to create any obligation for Declarant to convey any property improvement to the Association unless otherwise explicitly stated herein.
- 1.12 **“Common Expenses”** shall mean and refer to expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves, if any.
- 1.13 **“Declaration”** shall mean and refer to this Declaration of Covenants, conditions, and restrictions of The Reserve at Victoria.
- 1.14 **“Developer” or “Declarant”** shall mean and refer to AJP I of Volusia, LLC, a Florida limited liability company, and its successors and assigns.
- 1.15 **“Dwelling”** shall mean and refer to the single-family detached residential structure on a Lot.
- 1.16 **“Governing Documents”** shall mean and refer to this Declaration; the Articles; the Bylaws; and any and all rules, regulations, guidelines, and/or policies of the Association, all of the foregoing as amended, supplemented, and/or promulgated by the Association from time to time.

- 1.17 **“Individual Assessment”** shall mean and refer to Assessments levied in accordance with Article VI.
- 1.18 **“Institutional Lender”** shall mean and refer to the bona fide owner and holder of a first mortgage encumbering a Lot, which is a bank, savings bank, mortgage company, life insurance company, federal or state savings and loan association, national banking association, an agency of the United States government, private or public pension fund, Veteran’s Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a credit union, real estate or mortgage investment trust, or a lender generally recognized in the community as an institutional lender.
- 1.19 **“Lease”** shall mean and refer to an Owner’s grant to another of a temporary right of use and possession of such Owner’s Lot for valuable consideration. The term “Lease” shall not include or refer to the term “Short Term Vacation Rental” as hereafter defined.
- 1.20 **“Lot”** shall mean and refer to each residential building site created by the recorded plat of the Property and intended to be improved with a single family, detached residence, together with any improvements from time to time located thereon.
- 1.21 **“Member”** shall mean and refer to each Member as provided in Article III.
- 1.22 **“Mitigation and/or Conservation Area”** shall mean and refer to a system operated, maintained, and managed by the Association to provide drainage, water storage, conveyance, survival, and growth of aquatic plant material.
- 1.23 **“Owner”** shall mean and refer to the owner, as shown by the records of the Association, (whether it be one or more persons, firms, or legal entities) of fee simple title to any Lot located within the Property. Owner shall not mean or refer to the holder of a mortgage or security interest, its successors or assigns, unless and until such holder has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term “Owner” mean or refer to any lessee or tenant of an Owner.
- 1.24 **“Passenger Vehicles”** includes cars; station wagons; passenger vans and mini vans (the cargo capacity of which is devoted primarily to seating for passengers); sport utility vehicles; and pick-up trucks, which are intended for and used primarily as personal transportation; plus such other non-specified passenger vehicles primarily intended and used as transportation for personal and family purposes.
- 1.25 **“Person”** shall mean and refer to any individual, corporation, limited liability company, government agency, business trust, estate, trust, trustee, partnership, association, sole proprietorship, joint venture, two or more persons having a joint or common interest, or any other legal entity or legally recognized form of ownership.
- 1.26 **“Property”** shall mean and include the real property described in **Exhibit “A”** attached hereto.
- 1.27 **“Recreational Vehicles”** includes trailers, motorhomes, busses, boat trailers, truck campers, popup campers, camper vans, and conversion vans.
- 1.28 **“Special Assessment”** shall mean and refer to Assessments levied in accordance with Article VI.

- 1.29 **“Water Management District” or “District”** shall mean and refer to the St. Johns River Water Management District.

ARTICLE II **PROPERTY RIGHTS**

- 2.01 **Owners’ Easements of Enjoyment.** Every Owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title of every Lot, subject to the following:

- (a) The right of Declarant and/or the Association to grant easements and rights of way as may be appropriate for the proper development and maintenance of the Property, including, without limitation, Developer's right to reserve easements for itself, its successors and assigns for ingress, egress, maintenance, drainage and utilities over all Common Property.
- (b) The right of the Association to dedicate or sell all or any part of the Common Area (including leasehold interests therein) to any public agency, authority, utility, or private concern for such purposes and subject to such conditions as may be agreed upon by the Members. No dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer, approved by at least fifty-one percent (51%) of the Members, is recorded.
- (c) The right of the Association, upon Board approval, to borrow money from any lender for the purpose of improving and/or maintaining the Stormwater Management System, Common Area, and any improvements from time to time located or to be located thereon, and providing services authorized herein and, in aid thereof, to mortgage said Property.
- (d) By taking title to any property within the Property, each Owner covenants and agrees with all other Owners and with the Association that no Owner, or such Owner's family, guests, invitees, tenants, and/or licensees, shall engage in picketing, protest marches, sit-in demonstrations, protest speeches or other forms of public protest, including without limitation, displaying signs or placards within public view; upon any Lot; within or upon any Common Area; upon any easement or street adjacent to any Lot; affixed to the exterior of any vehicle or the interior of the windows thereof; or any apparatus upon or adjacent to any Lot street, easement, or Common Area. This prohibition shall not affect the right of any Person to participate in any other form of public protest conducted outside the Property. No Owner, or such Owner's family, guests, invitees, tenants, licensees, shall engage in conduct that tends to vilify, ridicule, denigrate, or impugn the character of any other Owner if such conduct occurs on any Lot, Common Area, easement, or any other portion of the Property. Each Owner, by taking title to any property within the Property, shall be deemed to have accepted the foregoing prohibitions as reasonable limitations on his or her constitutional right of free speech and to recognize and agree that all Owners have the right to the peaceful enjoyment of their property; the right of privacy; the right to practice their own religion; the freedom of association; the right to engage in a profession, business, or lifestyle of their own choosing, provided that the conduct of such

profession, business, or lifestyle is not illegal and does not otherwise violate any provision of the Governing Documents.

- (e) All provisions of this Declaration, any plat of any part of the Property, and the Articles and Bylaws of the Association.
- (f) The rules and regulations governing the use and enjoyment of the Common Property adopted by the Association.
- (g) All easements and restrictions of record affecting any part of the Common Property.

- 2.02 Drainage, Retention and Utility Easements.** Drainage, Retention and Utility Easements and right-of-way, over, parallel to, alongside of, and immediately on Lots as identified on the subdivision plat for the Property are hereby exclusively reserved for the use of drainage and utility easements in addition to those easements platted or in use. Public utilities serving the Property and the Lots have been, or will be, installed in the Common Area and within or upon the Property for the use, benefit, and service of the Property, the Lots, and all improvements on the Property. A permanent, perpetual, mutual, and non-exclusive easement shall exist over, across, and into the Property, Lots, and all improvements upon the Property for installation, maintenance, and repair of all utilities for lines, wires, pipes, equipment, and other items necessary for supplying light, heat, air conditioning, water, sewer, power, telephone, and CATV and other means of communication to the Property, Lots, and improvements upon the Property. Any and all use of the said utility easements shall be in accordance with the application provisions of this Declaration.
- 2.03 Conservation Easements.** Conservation easements over, parallel to, alongside of, and immediately on Lots as identified on the subdivision plat for the Property are hereby exclusively reserved for preservation of trees and natural vegetation and to prevent any use that will impair or interfere with the area environmental value.
- 2.04 Public Easements.** Fire, police, health and sanitation, and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Area.
- 2.05 Lot Easements.** Unless the Association elects to maintain easement areas on the Property, each Owner shall be responsible for the maintenance of all easements situated on her/his respective Lot(s) for conservation, utility and/or drainage purposes.
- 2.06 Association's Right of Entry.** The Association, and its duly authorized representatives and/or agents, shall have and possess the right, but not the obligation, to enter onto any part of the Property, including the Common Area and any Lot, for the purpose of fully and faithfully discharging the duties of the Association. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner of a Lot upon which such entry by the Association is made. Non-exclusive easements are hereby granted in favor of the Association throughout the Property as may reasonably be necessary for the Association to perform its services required and authorized hereunder, so long as none shall unreasonably interfere with the use of any Lot. Furthermore, an easement is hereby granted in favor of the Association, including its agents and designees, for purposes of carrying out all obligations and/or rights of the Association

pursuant to this Declaration. Furthermore, a nonexclusive easement in perpetuity in favor of the Association, including its agents and designees, to utilize for all proper purposes of the Association is hereby created over all utility easements and drainage easements located on any Lot, whether now existing or hereafter created, including but not limited to all utility easements and drainage easements contained on the plat.

- 2.07 Access.** Association and all Owners, including their respective tenants, guests, and invitees, have and possess perpetual, non-exclusive easements of ingress and egress over and across any access ways constructed on the Common Area from time to time.
- 2.08 Dedication of Streets and Roads.** Declarant reserves the right to dedicate the streets and roads within the Property and associated road drainage easements and facilities to the City for the perpetual use of the public and maintenance by the City.
- 2.09 Declarant's Rights.** Declarant, its successors and assigns shall have the unrestricted right, without approval or joinder of any other person or entity: (i) to designate the use of, alienate, release, or otherwise assign the easements shown in the plat of the Property or described herein, (ii) to plat or replat all or any part of the Property owned by Declarant, (iii) change the local government zoning of any portion of the Property owned by Declarant, and (iv) to widen or extend any right of way shown on any plat of the Property or convert a Lot to use as a right of way, provided that Declarant owns the lands affected by such change.
- 2.10 Common Area.**
- (a) Developer shall retain title to the Common Area until such time as Developer conveys such Common Area or any portion thereof to the Association by recorded instrument, free and clear of the monetary liens or encumbrances. All remaining Common Area not deeded to the Association shall be deemed conveyed to the Association, without further act or deed by Developer at such time as Developer no longer owns any Lots. Notwithstanding the foregoing, once Common Area has been conveyed to the Association, no part may be conveyed to any party by the Association, dedicated to the public (other than the roads and easements as shown on the plat of the Property or as otherwise necessary or convenient for the development of the Property), mortgaged, or otherwise encumbered without the approval of two thirds (2/3rds) of the Class A members, as defined hereafter, present in person or by proxy at a duly constituted meeting or by written consent.
 - (b) Developer shall be responsible for the construction of the streets and roads as depicted on the approved subdivision plat for the Property. Upon completion of construction for said streets and roads, Developer shall dedicate same to the City for the perpetual use of the public and maintenance by the City.
- 2.12 Survival.** Any and all easements or other rights granted or reserved pursuant to this Article II shall survive any termination or expiration of this Declaration.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

3.01 Membership.

- (a) Each Owner of a Lot that is subject to assessment as provided in Article VI, by acceptance of a deed or other instrument evidencing an ownership interest in such Lot, accepts membership in the Association, acknowledges the authority of the Association as herein stated, and agrees to abide and be bound by the provisions of the Governing Documents. Provided further that for so long as Declarant owns any Lots, Declarant shall also be a member of the Association. Membership shall be appurtenant to and may not be separated from title to each Lot. Membership shall be transferred automatically by conveyance of the title to any Lot, whereupon the membership of the previous Owner shall automatically terminate.
- (b) When any Lot is owned of record in the name of two (2) or more Persons, whether fiduciaries, joint tenants, tenants in common, tenants in partnership, or in any other manner of joint or common ownership, or if two (2) or more Persons have the same fiduciary relationship respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs, and a copy thereof is filed with the Secretary of the Association, such Owner shall select one official representative to qualify for voting in the Association and shall provide written notice to the Secretary of the Association of the name of such individual.
- (c) Members shall be responsible to ensure their occupants, tenants, guests, invitees, and/or family members comply with the Governing Documents.

3.02 Voting Rights. The Association shall consist of two classes of voting Members:

- (a) **Class A.** Class "A" Members shall be all Owners, with the exception of Declarant while the Class B Membership exists. Each Class "A" Member shall have one (1) vote for each Lot which she/he owns; provided, there shall be only one (1) vote per Lot. If there is more than one (1) Owner of a particular Lot, the vote for such Lot shall be exercised as such co-Owners determine amongst themselves and advise the Secretary of the Association in writing prior to the close of voting. Absent such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it.
- (b) **Class B.** Class "B" Member shall be Declarant and shall be entitled to the sole right to vote in all Association matters until the occurrence of the earlier of the following events ("Turnover"):
 - (1) Three (3) months after ninety percent (90%) of the Lots in the Property that will ultimately be operated by the Association have been conveyed to Class "A" Members.
 - (2) Such earlier date as Declarant, in its sole discretion, may determine in writing.

Prior to Turnover, the Declarant shall have the right, but not the obligation, to appoint up to seventy-five percent (75%) of the members for the Board of Directors. After Turnover, the Class "A" Members may vote to elect the members of the Board. After Turnover, Declarant shall be a Class "A" Member with respect to the Lots which it owns, and shall have all the rights and obligations of the Class "A" Members.

- 3.03 Declarant Veto Power.** Prior to Turnover, the Declarant shall have the right to veto any action taken by the Board of Directors that does not require the vote of the Owners unless Declarant has appointed at least twenty-five (25%) of the members for the Board of Directors.
- 3.04 Change of Membership.** A Member's interest in the Association (i) shall not be assigned, hypothecated, or transferred in any manner except as an appurtenant to the real property interest of such Member; and (ii) shall be appurtenant to, run with, and shall not be separated from the real property interest upon which membership is based.
- 3.05 General Matters.** When reference is made herein, or in the Articles, Bylaws, rules and regulations, management contracts or otherwise, to a majority or specific percentage of Members, such reference shall be deemed to be referenced to a majority or specific percentage of the votes of the Members and not of the Members themselves.

ARTICLE IV **PROPERTY SUBJECT TO THIS DECLARATION**

- 4.01 Property Subject to Declaration.** The Property is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration.
- 4.02 Additions to the Property.**
- a. Prior to Turnover, the Declarant may, but shall not be obligated to, subject additional land to this Declaration provided only that (1) any additional land subjected to this Declaration shall be contiguous to the Property then subject to this Declaration (for purposes of this Section, property separated only by private roads, water bodies, or open space shall be deemed contiguous), and (2) the owners of property within additional lands made subject to this Declaration shall be and become subject to this Declaration. Such annexation shall become effective upon the recording, in the Public Records of Volusia County, of a Supplement to this Declaration. Declarant reserves the right to supplement this Declaration to add land to the scheme of this Declaration pursuant to the foregoing provisions without the consent or joinder of any Owner or mortgagee of land within the Property.
 - b. After Turnover, the Association reserves the right, upon approval of two-thirds (2/3) of the Members, to add or cause to be added other real property, not now included within the Property, to the Property, and such additional real property shall be subject to the provisions of this Declaration. Such annexation shall become effective upon the recording, in the Public Records of Volusia County, of a Supplement to this Declaration.

- 4.03 **Merger.** Nothing in this Declaration is intended to limit or restrict in any way the Association's rights or ability to merge with any other association as the Board may feel is in the best interests of the Association and its Members. A merger or consolidation must have the approval of fifty-one percent (51%) of the Members of the Association. Upon a merger or consolidation of the Association with another association, all Common Area, rights, and obligations shall, by operation of law, be transferred to the surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association, by operation of law, may be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants established by this Declaration within the Property, together with the covenants and restrictions established by any supplement upon any other properties, as one scheme. No such merger or consolidation, however, shall cause a revocation, change, or addition to the covenants in Declaration as it pertains to the Property, except as hereinafter provided.

ARTICLE V

FUNCTIONS OF THE ASSOCIATION

- 5.01 **The Association.** The Association is the entity responsible for management, maintenance, operation, and control of the Common Areas. The Association also has the primary responsibility for administering and enforcing the Governing Documents.
- 5.02 **Implied Rights; Board Authority.** The Association shall have the power to do all lawful things that may be authorized, assigned, required, permitted, or inferred to be done by the Governing Documents, and to do and perform any and all acts that may be necessary or proper for, or incidental to, the exercise of any of the duties or powers of the Association for the benefit of the Owners and for the administration of the Property. Except as otherwise specifically provided in the Governing Documents or by law, all of the Association's rights and powers may be exercised by the Board without the vote of the membership; the Members shall only have such power or rights of approval or consent as is expressly specified herein, or in the Articles or Bylaws.
- 5.03 **Required Services.** In addition to those other responsibilities specified in the Articles or Bylaws, the Association shall be required to provide the following services as and when deemed necessary and appropriate by the Board and shall have easement rights necessary to perform same:
- (a) All maintenance of the Common Area, and all improvements thereon, as and when deemed necessary by the Board.
 - (b) Maintenance and care for all landscaped areas within the Common Area.
 - (c) Installation, maintenance and on-going care for lawns and shrubbery planted by the Association on specified common areas, and lawn irrigation piping installed by the Association for same, including but not limited to replacement of irrigation piping, mowing, weeding, and fertilizing, the cost of which shall be a common expense of the Association
 - (d) Installation, maintenance and on-going care for a master irrigation and pump system to be installed throughout the community to service the common areas as well as each homesite.

- (e) Taking any and all actions necessary to enforce all covenants, restrictions, and easements affecting the Property and performing any of the functions or services delegated to the Association in any covenants, conditions, or restrictions applicable to the Property, or in the Articles or Bylaws.
- (f) Adopting, publishing, and enforcing such reasonable rules and regulations as the Board deems necessary.
- (g) Conducting business of the Association, including arranging for ancillary administrative services such as legal, accounting and financial, and communication services such as notice of meetings and other important events.
- (g) Purchasing insurance as may be required hereby or by the Bylaws and any other insurance to the extent deemed necessary or desirable by the Board.

5.04 Authorized Services. The Association shall be authorized, but not required, to provide the following functions and services and shall have easement rights necessary to perform the same:

- (a) Such other services as are authorized in the Governing Documents.
- (b) Cleanup, landscaping, maintenance, dredging, water treatment, or other care of canals or other property (public or private) adjacent to or near the Property to the extent such care would, in the reasonable determination of the Board, be beneficial to the Property and to the extent that the Association has been granted the right to so care for the affected property by the owner thereof or other person(s) authorized to grant such right, including, but not limited to, any appropriate governmental authority.
- (c) Emergency repairs and other work on Lots reasonably necessary for the proper maintenance and operation of any Surface Water or Stormwater Management System.
- (e) Operate, maintain, and manage any Mitigation and/or Conservation Areas.

5.05 Actions by Association. Anything herein to the contrary notwithstanding, no general funds of the Association shall be utilized for bringing, supporting, investigating, or otherwise abetting any legal action, claim, or extra-judicial action except for (i) imposition, enforcement, and collection of Assessments, including lien rights, pursuant to Article VI hereof; (ii) collecting of debts owed to the Association; (iii) actions brought by the Association to enforce the provisions of this Declaration; and (iv) counterclaims brought by the Association in proceedings instituted against it, unless such legal action, claim, or extra-judicial action shall be specifically approved for such purposes by two-thirds (2/3) of the total votes of all Members of the Association who are voting in person or by proxy at a meeting duly called for this purpose. Nothing within this Article V shall be deemed to limit or prevent the Association from undertaking any action in defense of a legal action, claim, or extra-judicial action brought against the Association, and any such action taken in defense thereof shall not require the approval of the membership.

ARTICLE VI
COVENANT FOR MAINTENANCE ASSESSMENTS

6.01 Budgeting and Allocating Common Expenses.

- (a) At least thirty (30) days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year.
- (b) The Association is hereby authorized to levy Base Assessments equally against all Lots subject to assessment to fund the Common Expenses. The Base Assessment shall be set at a level that is reasonably expected to produce total income for the Association equal to not less than the total budgeted Common Expenses, including reserves, if any. In determining the total funds to be generated through Base Assessments, the Board, in its discretion, may consider other sources of funds available to the Association.
- (c) The Board shall send to each Owner notice that the budget has been prepared and is available for Owner review at least seven (7) days prior to the beginning of the fiscal year for which it is to be effective. Such budget shall become effective upon its adoption by the Board at a Board meeting duly noticed and called for such purpose.
- (d) If the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year, increased five percent (5%), shall continue for the current year.

6.02 Personal Obligation.

- (a) Each Owner, by accepting a deed or other written instrument purporting to transfer title to a Lot, is deemed to covenant and agree to comply with all provisions of the Governing Documents and to pay all assessments authorized in this Declaration regardless whether it shall be expressed in any such deed, written instrument, or other conveyance. All assessments, together with interest from the due date of such assessment at the maximum rate available under Florida law (to wit: currently 18% per annum), reasonable late charges in such amount as is established by resolution of the Board, costs, and reasonable attorneys' and paralegals' fees, shall be a charge and continuing lien upon each Lot against which the assessment is made until paid, as more particularly provided in Section 6.06. Each such assessment, together with interest, late charges, costs, and reasonable attorneys' and paralegals' fees, also shall be the personal obligation of the person/entity who was the Owner of such Lot at the time the assessment arose. The personal obligation of the then Owner to pay such assessments, interest, charges, costs and fees shall remain that Owner's personal obligation, and the Owner's successor(s) in title shall be jointly and severally liable therefor. In the case of co-ownership of a Lot, all of such co-Owners shall be jointly and severally liable for the entire amount of the assessment, as well as all interest, late charges, costs, and reasonable attorneys' and paralegals' fees.

- (b) Failure of the Board to fix assessment amounts or rates or to deliver or mail to each Owner as assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments.
- (c) No Owner may exempt himself or herself from liability for assessments by nonuse of Common Area, abandonment of the Owner's Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

6.03 Base Assessments.

- (a) The Board is hereby authorized to levy assessments against each Lot subject to assessment, to be used exclusively for the purpose of implementing the corporate purposes and powers of the Association, including but not limited to:
 - (1) payment of Common Expenses; and
 - (2) to perform all obligations and services that the Association is authorized and/or required to providing, including but not limited to:
 - (i) payment of taxes and insurance premiums;
 - (ii) payment of costs related to construction, repair and/or replacement of improvements, if any;
 - (iii) payment of costs to acquire labor, equipment, materials, management, and supervision necessary to carry out its authorized functions; and
 - (iv) for the payment of principal, interest, and any other charges connected with loans made to or assumed by the Association for the purpose of enabling the Association to perform its authorized or required functions.
 - (v) Maintenance and upkeep of amenities, parks and other property maintained and owned by the Association.

The Owners hereby acknowledge and agree that this list is not an exhaustive list of all the items contemplated within the amount of the Base Assessments.

- (b) The Association may establish reserve funds to be held in reserve, in an interest-bearing account or investments, as a reserve for (i) major rehabilitation or major repairs to Common Area that must be replaced on a periodic basis; (ii) emergency and other repairs required as a result of storm, fire, natural disaster, or other casualty loss; (iii) insurance premiums or taxes; and (iv) such other items as the Board may deem appropriate

- (c) Base Assessments shall be paid in such manner and on such dates as the Board may establish. Unless the Board otherwise provides, the Base Assessment shall be payable in advance in monthly installments, due on the first day of each month.
- (d) As of the date hereof, the Base Assessment shall be levied in uniform amount as to all Lots that are subject to assessment. The initial Base Assessment is hereby set at the rate of \$_____ per Lot. The Base Assessment may be increased each year subsequent hereto either by (i) a majority vote of the Board – without a vote of the Owners – so long as the amount of increase does not exceed five percent (5%) per year; or (ii) in excess of a five percent (5%) increase only upon approval of two-thirds (2/3) of the Owners voting in person or by proxy at a meeting duly called for such purpose.

6.04 Special Assessments.

- (a) In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted, including but not limited to any construction or reconstruction, unexpected repair or replacement of a capital improvement upon the Common Area, including the fixtures and personal property related thereto, or for any other purposes as determined by the Board.
- (b) The Association may also levy Special Assessments from time to time to balance the budget, provided that such Special Assessment to balance the budget shall be approved by a Board meeting for this purpose. Notice of such Board meeting to discuss the potential levying of a Special Assessment in order to balance the budget shall be sent to the Members at least thirty (30) days in advance and shall set forth the specific purpose of the meeting.
- (c) Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

6.05. Real Estate Taxes. In the event the Common Property is taxed separately from the Lots, the Association shall include such taxes as part of the Base Assessments. In the event the Common Property is taxed as a component of the value of the Lot owned by each Owner, it shall be the obligation of such Owner to promptly pay such taxes prior to their becoming a lien on the Property.

6.06 Individual Assessment. The Board shall have the power to levy Individual Assessments against a particular Lot or Lots constituting less than all Lots within the Property, as follows:

- (a) To cover costs incurred in bringing the Lot into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their tenant, licensees, invitees, or guests.
- (b) The Association may also levy an Individual Assessment against any Owner responsible for damaging or destroying the Common Area.

6.06 Administrative Assessment.

- (a) An Administrative Assessment of Seventy-Five Dollars (\$75.00) shall be due and payable upon each transfer of title to a Lot to a new owner. Such fee shall not be due upon the lease or rental of a Lot, nor upon the transfer of a Lot when transferred for nominal consideration to the Owner's spouse or children, or to a family trust.
- (b) The amount of the Administrative Assessment may be increased by five percent (5%) each five (5) years subsequent to the date of execution hereof.
- (c) Notwithstanding any other provision of this Declaration to the contrary, the Administrative Assessment shall be treated in all respects as an assessment against the Lot due from the new Owner, and may be the subject of a lien and foreclosure action in the same manner provided in this Article VI for collection of other assessments.
- (d) The Administrative Assessment shall be deemed delinquent if not received by the Association within fourteen (14) days after the date of transfer of the Lot and, if delinquent, shall be subject to interest, late fees, costs, and attorneys' fees and paralegals' fees as provided elsewhere herein this Article VI.

6.07 Non-Payment of Assessments; Lien for Assessments.

- (a) If any assessment is not paid within thirty (30) days after the date due, then such assessment shall be deemed delinquent and shall (i) bear interest – at the maximum rate allowable by law (to wit: as of the date hereof, 18% per annum) – from the date of delinquency; and (ii) shall incur reasonable late charges in such amount and frequency as is established by resolution of the Board, continuing until all such monies due and owing to the Association (including costs of collection and/or attorneys' fees and paralegals' fees incurred, whether or not legal proceedings are instituted) have been paid in full.
- (b) If the assessments against any Lot remain unpaid ninety (90) days after the date due, the Association shall, upon written notice to the delinquent Owner of such Lot, have the right to accelerate and require such delinquent Owner to immediately pay all assessments coming due against his/her Lot for the next twelve (12) months following the date of such notice. In the event of such acceleration, the defaulting Owner shall continue to be liable for any increases in any of the assessments levied during the period of acceleration.
- (c) All assessments authorized in this Article VI shall constitute a lien against the Lot against which they are levied until paid. The lien shall also secure payment of interest, late charges, and cost of collection (including attorneys' and paralegals' fees, regardless whether legal proceedings are instituted). Such lien shall be superior to all other liens, except (i) the liens of all local and/or state taxes, bonds, assessments, and other levies, which by law would be superior; and (ii) the lien or charge of any first priority Institutional Lender of record made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mortgages on real property are foreclosed under Florida law.

- (d) The Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following foreclosure no right to vote shall be exercised on its behalf.

6.08 Subordination of the Lien to Mortgages; Mortgagees' Rights. The lien of the assessments provided for herein is subordinate to the lien of any purchase money mortgage given to an Institutional Lender now or hereafter placed upon a Lot recorded prior to the recording of a notice of lien pursuant to this Article VI. Provided, however, that such subordination of the lien shall (i) apply only to an Institutional Lender that acquires title to a Lot via mortgage foreclosure in which the Association has been included as a defendant from the outset of such lawsuit, or by virtue of a deed-in-lieu executed and recorded subsequent to initiation of such a mortgage foreclosure action; (ii) be contingent upon such Institutional Lender providing, to Association's approval, evidence of having been the bona fide holder of the note and mortgage of any such purchase money mortgage; and (iii) apply only to the extent of the assessments which have become due and payable prior to such Institutional Lender acquiring title via such a mortgage foreclosure action or deed-in-lieu transfer of title. Notwithstanding, such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment

An Institutional Lender holding a secured purchase money mortgage lien on a Lot, upon delivery of written request from such Institutional Lender to the Association, shall be entitled to written notification from the Association of any default of an Owner of any obligation hereunder which is not cured within sixty (60) days. The Association may provide such notice without receiving a request from the Institutional Lender without further notice to the Owner.

6.09 Exempt Property. The following properties subject to this Declaration shall be exempted from the Common Expenses, Base Assessments, Special Assessment, Individual Assessments, Administrative Assessments, any other Assessment charges, and liens created herein: (a) all properties dedicated to and accepted by a governmental body, agency or authority; and (b) all Common Property. All Lots, Property or Additional Property owned by the Developer (including, without limitation, any Lot used or leased by the Developer, and any Lots owned by a builder constructing a Residence thereon for sale to third parties, or used by the Developer or a builder as a model home, construction facility, or other use) shall be exempt from payment of Assessments for so long as Developer funds any deficit in the annual budget. Developer shall fund such expenses only as they are actually incurred by the Association during the period that Developer is funding the deficit. A deficit shall have occurred if in any fiscal year of the Association the expenses of the Association exceed the Assessments plus other income receivable by the Association. Developer's obligation to fund any deficits shall terminate at such time as Developer, in its sole discretion, elects to pay the Assessment for each Lot owned by it which has been subjected to the Declaration, or after Turnover, whichever shall first occur. Developer may, but is not obligated to, assign this exemption right to any entity it may determine, including without limitation any builder owning Lots solely for the purpose of constructing Residences intended to be sold to ultimate purchasers. Any such assignment of Developer's exemption shall have no effect on Developer's exemption hereunder.

- 6.10 **Expenses.** Notwithstanding the foregoing, in the event the Association incurs any expense not ordinarily anticipated in the day-to-day management and operation of the Property, including but not limited to expenses incurred in connection with lawsuits for or against the Association or in connection with damage to property, or injury or death to any person, which are not covered by insurance proceeds, the liability of Developer for such expenses shall not exceed the amount that it would be required to pay if it was liable for Assessments for common expenses as any other Owner, and any excess amounts payable by the Association shall be assessed to the other Owners.
- 6.11 **Capital Contribution.** In addition to all other obligations and assessments outlined in this Declaration, each Owner, by accepting a deed or other written instrument purporting to transfer title to a Lot, agrees pay a non-refundable contribution to the capital of the Association in an amount equal to two (2) years of the then current year's Base Assessment ("Capital Contribution Transfer Fee"). The Capital Contribution Transfer Fee shall be shown on any estoppel certificate issued by or on behalf of the Association in connection with the conveyance of the Lot, shall be nonrefundable and in addition to, and not in lieu of, all other assessments levied on the Lot. Further, Capital Contribution Fee shall not be considered an advance payment of any portion of Assessments and may be used for any of the purposes and services set forth in this Declaration, including the reduction of the Declarant's deficit funding. The Capital Contribution Transfer Fee shall be due and payable at closing of the sale of each Lot. Notwithstanding the foregoing, the Declarant and/or any of its affiliate builder entities shall not be subject to payment of the Capital Contribution Transfer Fee.

ARTICLE VII

ARCHITECTURAL CONTROL

- 7.01 **Purpose.** The purpose of the Association's architectural control is to enforce the architectural standards of the Association and to approve or disapprove plans for improvements proposed within the Property as further set forth herein.
- 7.02 **Applicability.** All real property within the Property is subject to architectural review and control by the Association as set forth in this Article VII. The Association shall perform architectural review, approval, and enforcement of such rights within the scope of this Article VII and pursuant to any further design guidelines promulgated by the Association.
- 7.03 **Approval Requirement.** No site work, landscaping (excluding flowers and shrubs), utility installation or extension, drainage improvement, paving, driveway, swimming pool, pool enclosure, building, fence, wall, sidewalk, dock, lighting, equipment, or any other physical or structural improvement in the Property, nor any exterior alteration or addition to any of the foregoing, shall be permitted, commenced, erected, or maintained until the Association has received, reviewed, and provided written approval of the plans thereof in accordance with this Article VII.
- 7.04 **Submissions.** Two (2) complete sets of such plans and specifications showing the nature, kind, shape, height, color, materials, and location of a proposed alteration of a Lot shall be submitted to the ARC.
- 7.05 **Architectural Review.** Any proposed alteration of a Lot shall be subject to the Association's review, through its Architectural Review Board ("ARC").

- (a) The ARC shall consist of at least three (3) but not more than five (5) persons, all of whom shall be appointed by the Board for a term of one (1) year. At least one (1) member of the ARC shall be a Director of the Association.
- (b) Notwithstanding the term of each ARC member, the ARC shall serve at the Board's sole discretion, and the Board shall have the right and authority to remove any member of the ARC with or without cause at any point during such term.
- (c) If additional expertise is required for the ARC to review a particular application, the ARC may, with the prior written approval of the Board and concurrence of the Owner that submitted an alteration request, retain architects, engineers and/or other professionals to assist in the review of such application. The Association may charge the Owner any fee incurred for such assistance.
- (d) The ARC may consider (but shall not be restricted to consideration of) visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, location in relation to surrounding structures and plan life, compliance with the general intent of this Declaration and design guidelines, if any, quality of workmanship, and architectural merit. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.
- (e) The ARC shall, within thirty (30) days after receipt of an Owner's submission for requested alteration, provide written notice to such Owner, at an address specified by such Owner at the time of submission, of the approval, disapproval, or conditional disapproval (specifying the segments or features which are objectionable and suggestions, if any, for the curing of such objections) thereof. In order to consider such application approved by the ARC, each page of both sets of the plans must bear the ARC's stamp of approval or be identified as part of the approval. In the event the ARC fails to timely provide the written notice to an Owner, the Owner must give the ARC written notice of such failure to respond, stating that unless the ARC responds within twenty-one (21) days of receipt of such notice, approval shall be deemed granted. Upon such further failure by the ARC, approval shall be deemed to have been given. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with this Declaration and/or any design guidelines, unless a variance has been granted in writing pursuant to Article VII. Notice shall be deemed to have been given (i) if by mail, at the time the envelope containing such notice, properly addressed, and postage prepaid, is deposited with the U.S. Postal Service; or (ii) if by personal service, at the time of delivery.
- (f) All applications submitted for ARC consideration shall be on the approved applications of the Association. Submittal requirements shall be as specified in the rules adopted by the ARC, which are subject to change and may be amended without notice.

7.06 Design Guidelines. The Association may establish design and construction guidelines (“Design Guidelines”) to provide guidance to Owners in considering any alteration to an Owner’s Lot.

- (a) Notwithstanding any to contrary herein, the Property shall be subject to the following standards within the Reserve at Victoria PD:
1. All single-family garages shall be designed with adequate space to park at least two standard size vehicles; and
 2. A minimum of five (5) shade trees, as defined by the City Land Development Regulations, as amended, with a minimum width of 2-inch diameter at breast height shall be planted on all Lots. For all non-corner Lots, a minimum of one (1) tree, as defined by the City Land Development Regulations, as amended, shall be planted along the street frontage. For corner Lots, a minimum of three (3) trees shall be planted along the street frontage of each corner Lot, and two (2) of said trees shall be planted along the longest front yard street frontage. The tree plantings required herein shall be pursuant to the development order approved by the City for the Reserve at Victoria.
 3. Any Owner who submits for ARC approval must ensure that all work approved by the ARC is covered under any permit that may be required by the City.

The ARC shall be responsible for ensuring compliance with the above standards, including any additional standards that may be added from time to time as approved by the Board.

- (b) The Design Guidelines, if any, shall not be the exclusive basis for decisions under Article VII, and compliance with the Design Guidelines shall not guarantee approval of the ARC. Any such Design Guidelines may contain general provisions applicable to all of the Property, as well as specific provisions that vary from one portion of the Property to another depending upon the location, type of construction or use and unique characteristics of the property.
- (b) The Design Guidelines shall be subject to amendment from time to time in the sole discretion of the Board. Amendments to the Design Guidelines shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines; amendments may remove requirements previously imposed or otherwise to make the Design Guidelines more or less restrictive in whole or in part.

7.07 Commencement and Completion of Approved Work. If, within sixty (60) days of approval, the Owner does not commence the approved work, such approval shall be deemed withdrawn and it shall be necessary for the Owner to resubmit a request to the ARC in accordance with such Design Guidelines as are then in effect prior to commencing such work. All work shall be completed within six (6) months of commencement or such other period as may be specified in the notice of approval, unless

completion is delayed due to causes beyond the reasonable control of the Owner, as determined in the sole discretion of the ARC.

- 7.08 No Waiver of Future Approvals.** Each Owner acknowledges that the persons reviewing applications under this Article VII will change from time to time and that decisions regarding aesthetic matters and interpretation and application of the Design Guidelines, if any, to identify objectionable features of proposed work until the work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the ARC may refuse to approve similar proposals in the future. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any matter requiring approval, shall not be deemed a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings or other matters whatever subsequently or additionally submitted for approval.
- 7.09 Variances.** The Board may, but shall not be required to, authorize variances from compliance with any of the provisions of the Design Guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, or when architectural merit warrants such variance, as it may determine in its sole discretion. Such variances shall be granted only when, in the sole judgment of the Board, unique circumstances exist; no Owner shall have any right to demand or obtain a variance. No variance shall (a) be effective unless in writing, (b) be contrary to this Declaration, or (c) estop the ARC and/or the Board, as applicable, from denying a variance in other circumstances.
- 7.10 Limitation of Liability.** The standards and procedures established by this Article VII are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Property but shall not create any duty on any person charged with review of the same. Neither the Association, nor the Board, nor the ARC shall bear any responsibility for ensuring structural integrity or soundness; compliance with building codes and other governmental requirements; or ensuring that structures on Lots are located so as to avoid impairing views or other negative impact on neighboring Lots. No representation is made that all structures and improvements constructed within the Property are or will be of comparable quality, value, size, or design. Neither the Association, the Board, the ARC, nor any member of any of the foregoing shall be held liable for soil conditions, drainage problems, or other general site work, nor for defects in any plans or specifications submitted, nor for any structural or other defects in work done according to approved plans, nor for any injury, damages or loss arising out of the manner, design or quality of approved construction on or modifications to any Lots.
- 7.11 Enforcement.**
- (a) Any work performed in violation of this Article VII or in a manner inconsistent with an approved request to the ARC shall be deemed to be nonconforming. Upon written request from the Association, an Owner shall, within thirty (30) days of receipt thereof, remove any nonconforming structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work, all at such Owner's own cost and expense. Should an Owner fail to remove and restore as required, the Board or its agents shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall

not be deemed a trespass. Upon demand, the Owner shall reimburse all costs incurred by the Association in exercising its rights under this Section.

- (b) The Association may preclude any contractor, subcontractor, agent, employee or other invitee of an Owner that fails to comply with the terms and provisions of this Declaration and the Design Guidelines, if any, from continuing or performing any further activities in the Property. Neither the Association, nor its officers, directors, agents shall be held liable to any person for exercising the rights granted by this paragraph.
- (c) In addition to the forgoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article VII and the decisions of the reviewing entities under this Article VII.
- (d) Notwithstanding anything to the contrary herein, the Board may adopt additional procedures and timelines for enforcement consistent with the Article at any time.

ARTICLE VIII

UTILITIES

- 8.01 **Water System.** The central water system which is operated and maintained by the City provides for water service to the Property and shall be used as the sole source of potable water for all water spigots and outlets located within or on all buildings and improvements located on each Lot. Each Owner shall pay water meter charges established or approved by the supplier thereof, and shall maintain and repair all portions of such water lines located within the boundaries of his Lot. No individual water supply system or well for consumptive purposes shall be permitted on any Lot.
- 8.02 **Sewage System.** The central sewage system which is operated and maintained by the City provides for service to the Property and shall be used as the sole sewage system for each Lot. Each Owner shall maintain and repair all portions of such sewer improvements and lines located within the boundaries of his Lot, and shall pay when due the periodic charges or rates for the furnishing of such sewage collection and disposal services made by the operator thereof. No sewage shall be discharged into the open ground or in to any marsh, lake, pond, park, ravine, drainage ditch, canal or roadway.
- 8.03 **Reclaimed Water System.** If required by the City, Developer may install lines within the Property to carry reclaimed water to be utilized by the Owners for irrigation of their Lots and by the Association for irrigation of Common Property. The City may require Owners to utilize the reclaimed water system.
- 8.04 **Community Irrigation System.** The Association shall be responsible for the on-going maintenance and care of a community wide irrigation system for all Lots after installation and certification by original owner or builder.

ARTICLE VIII

USE RESTRICTIONS

- 9.01 **Framework for Regulation.** This Declaration has been drafted as part of a general plan for the Property in order to enhance all Owners' quality of life and collective interests, the aesthetics and environment within the Property, and vitality of and sense of

community within the Property, all subject to the Board's ability to respond to changes in circumstances, conditions, needs and desires within the community.

- (a) The Property is subject to the land development, architectural, and design provisions described herein; the other provisions of this Declaration governing individual conduct and uses of or actions upon the Property; and the guidelines, rules, and restrictions promulgated pursuant to the Governing Documents, all of which establish affirmative and negative covenants, easements and restrictions on the Property.
- (b) The Board may adopt rules that further define the Use Restrictions ("Rules and Regulations"), which shall become effective upon the Board's adoption thereof. The Board shall publish notice of the proposed action by either mailing to each Member at each Member's last known mailing address, in a community newsletter, electronic bulletin board, or by other means which the Board determines will be reasonably effective in disseminating such notice on a community-wide basis, at least fourteen (14) days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

9.02 Acknowledgement and Notice to Purchasers. All Owners and occupants of Lots are given notice that use of the Lots is limited to the Use Restrictions and the Rules and Regulations, if any, as they may be changed from time to time in accordance with this Declaration. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Lot can be affected by this provision and that the Use Restrictions and/or Rules and Regulations may change from time to time.

9.03 Violation. If any Owner, the Board, or any other Person shall violate or attempt to violate any of the covenants herein, it shall be lawful for the Association or any person(s) owning real estate subject to these covenants to bring any proceeding at law or in equity against the Person(s) violating or attempting to violate any such covenants, including action to enjoin or prevent such Person(s) from so doing, or to cause the Person(s) violating such covenants to immediately cease and desist and to correct any existing violation. The party or parties prevailing in any such action shall be entitled to recover such party's or parties' the costs incurred, including reasonable attorneys' fees and costs, whether or not litigation is commenced, and through all appellate levels.

9.04 Use Restrictions. The following restrictions shall apply to all the Property until such time as they are amended, modified, repealed, or limited by rules of the Association adopted pursuant to this Declaration.

- (a) **Residential Use.** Except as otherwise provided herein, all Lots shall be improved and used solely for single-family residential use. No gainful occupation, profession, trade, or other commercial activity shall be conducted on any Lot. Notwithstanding the foregoing prohibition, upon prior written approval of the Board (which approval may be withheld in the Board's sole and unfettered discretion), Lots may also be used for certain designated home occupations provided (i) they are in accordance with applicable local government ordinances and other legal requirements for home occupations in residential districts, and (ii) they do not generate any pedestrian or vehicular traffic to or from the Lot in

excess of that which would customarily be generated by a single-family residential use that does not include a home business.

- (b) **Timeshares Prohibited.** Operation of any timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Lot rotates among participants in the program on a fixed or floating time schedule over a period of years shall be prohibited.
- (c) **Common Area.**
 - (1) No damage to, or waste of, the Common Area or any part thereof, or of the exterior of any building thereon shall be committed by any Owner, or such Owner's family members, tenants, guests, invitees, or licensees; and each Owner shall indemnify and hold the Association and other Owners harmless against all loss resulting from any such damage or waste caused by such Owner and/or Owner's family members, tenants, guests, invitees, or licensees, to the Association or other Owners.
 - (2) Nothing shall be stored or constructed within or upon, nor shall anything be removed from, the Common Area except by the Association.
 - (3) No activities constituting a nuisance shall be conducted upon any Common Area.
 - (4) No rubbish, trash, garbage, or other discarded items shall be placed or allowed to remain upon any Common Area.
 - (5) All capital improvements to the Common Area, save and except (i) maintenance, repair, or replacement of those items originally installed by Declarant; and (ii) personal property of the Association related to the maintenance, repair, or replacement of Common Area, shall require the approval of two-thirds (2/3) of the total votes of all Members who are voting in person, or by proxy, at a meeting duly called for this purpose, unless such capital improvement is required by any applicable Federal, State, or local law or ordinance, or by the District.
- (d) **Construction Standards.**
 - (1) **Exterior Materials.** Exterior elevations shall be comprised of natural materials, to wit: cypress, cedar, redwood, or other durable wood types; stone; and/or natural brick. Stucco for all exterior elevations is acceptable; exposed block will not be allowed.
 - (2) **Roofs.** Flat roofs shall not be permitted on areas other than Florida rooms, porches, or patios, unless specifically approved by the Board or the ARC. Built-up roofs are not permitted on pitched surfaces. The pitch must be at least 5/12 unless otherwise approved by the Board or the ARC. Mansard roofs are not permitted unless approved by the Board or the ARC.

- (3) **Landscaping.** All yards must be sodded and irrigated using St Augustine sod or landscaped in disturbed areas from the rear of the Dwelling, or from the waters edge where abutting a lake or retention area, to the street. Vegetable gardens may only be installed in the rear or side of a Dwelling (except, for a corner Lot, a vegetable garden may only be installed in the rear of a Dwelling) and must not be visible to any other owner or common area. The use of Florida-friendly landscaping may be instituted upon ARC approval thereof. White gravel, shells, and other similar light-colored materials are prohibited for use as groundcover.
- (e) **Laundry Drying/Hanging.** The outside drying or hanging of laundry shall not be permitted anywhere on the Property unless the same shall be placed in the rear yard of a Lot such that it is not visible from the front of such Lot. Any pole, line, or other device used for hanging laundry (in conformance to the requirements herein) shall be portable and shall be removed when not in use.
- (f) **Antennae, Aerials, Discs.**
- (1) There shall be no exterior radio, antenna, antenna poles, antenna masts, citizen band (CB), amateur band (HAM), or other antenna or device for sending or receiving electromagnetic signals, erected or maintained on the Property without the prior written approval of the ARC. Any such ARC-approved antenna or device shall be located on a Lot such that it cannot be seen from any street and is shielded from view from any adjoining Lot.
 - (2) Satellite television reception devices will be permitted without ARC approval; provided, however, that any such devices shall be mounted in the rear yard or side of the Dwelling, except when such locations prevent adequate signal reception. All installations must be mounted with wires and installation hardware attached neatly and in a professional manner with no exposed hanging wires visible.
 - (3) If, in the Board's determination, use of any such antenna or device is interfering with the electronic reception of any other Lot, then the Board may require the immediate discontinuation of use and removal of such antenna and/or device.
- (g) **Flags.** Any Owner may display, in a respectful manner.
- (1) one portable, removable United States Flag or official Flag of the State of Florida that is not larger than 4 1/2 feet by 6 feet;
 - (2) one portable, removable official Flag that represents the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or a POW-MIA flag. Such additional flag shall be equal to or smaller than the United States Flag.
- (h) **Flagpoles.** Any Owner may erect one freestanding flagpole no more than twenty feet (20') in height on any portion of the Owner's Lot, provided that the flagpole does not obstruct sightlines at intersections and is not erected within or upon any

easement. An Owner may display any of the flags described in Article IX, Section 9.04(g), without ARC approval, provided that such flags are in strict conformance to the requirements of this Article IX, Section 9.04(g). No other flag may be displayed from such flagpole without the prior written approval of the ARC.

- (i) **Games and Play Structures.** All attached or permanent game and play structures shall receive prior approval of the ARC. Basketball goals must be portable and all portable play equipment must be stored out of view from any adjoining Lot or street when not in use.
- (j) **Subdivision or Partition.** No portion of the Property shall be subdivided, replatted, or separated into smaller Lots by any Owner. Provided however, this restriction shall not prohibit corrective deeds or similar corrective instruments. Developer shall have the right to reconfigure Lots or modify subdivision plats of the Property if Developer owns all the Lots within the legal description of the Property to be subjected to the replat, or if all Owners of Lots which are included within the portion of the plat so modified consent to such modification, which consent shall not be unreasonably withheld or delayed. Further, Developer may re-subdivide lots to be used for streets.
- (k) **Casualty Destruction to Improvements.** In the event an improvement is damaged or destroyed by casualty, hazard, or other loss, the Owner thereof shall promptly rebuild or repair the damaged improvements in accordance with the original architectural plans and specifications, including any ARC-approved alterations thereto, and diligently continue such rebuilding or repairing activities to completion.
- (l) **Surface Water or Stormwater Management System(s).**
 - (1) “Surface Water or Stormwater Management System” means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.
 - (2) The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved by the St. Johns River Water Management District.
 - (3) Assessments shall also be used for the maintenance and repair of the surface water or stormwater management systems including but not

limited to work within retention areas, drainage structures and drainage easements.

- (4) The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District.
- (5) Any amendment to the Covenants and Restrictions which alter any provision relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the St. Johns River Water Management District.
- (6) The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in the Covenants and Restrictions which relate to the maintenance, operation and repair of the surface water or stormwater management system.

(m) **Conservation Easement Areas.**

- (1) Pursuant to the provisions of Section 704.06, Florida Statutes, Developer has granted to the St. Johns River Water Management District (the "District") a conservation easement in perpetuity over the property described in the Conservation Easement recorded on _____ in Official Records Book _____, Page _____, Public Records of Volusia County, Florida. The Conservation Easement is attached hereto as **Exhibit "C"**. Developer granted the Conservation Easement as a condition of permit number 161004-2 issued by the District, solely to offset adverse impacts to natural resources, fish and wildlife, and wetland functions.
- (2) **Purpose.** The purpose of the Conservation Easement is to assure that the Conservation Easement Areas will be retained forever in their existing natural condition and to prevent any use of the Conservation Easement Areas that will impair or interfere with the environmental value of these areas.
- (3) **Prohibited Uses.** Any activity in or use of the Conservation Easement Areas inconsistent with the purpose of the Conservation Easement is

prohibited. The Conservation Easement expressly prohibits the following activities and uses:

- (a) Construction or placing buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground.
 - (b) Dumping or placing soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials.
 - (c) Removing, destroying or trimming trees, shrubs, or other vegetation.
 - (d) Excavating, dredging or removing loam, peat, gravel, soil, rock or other material substances in such a manner as to affect the surface.
 - (e) Surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition.
 - (f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
 - (g) Acts or uses detrimental to such retention of land or water areas.
 - (h) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.
- (4) Rights of District. To accomplish the purposes stated in the Conservation Easement, the Developer conveyed the following rights to the District:
- (a) To enter upon and inspect the Conservation Easement Areas in a reasonable manner and at reasonable times to determine if Developer or its successors and assigns are complying with the covenants and prohibitions contained in the Conservation Easement.
 - (b) To proceed at law or in equity to enforce the provisions of the Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and require the restoration of areas or features of the Conservation Easement Areas that may be damaged by any activity inconsistent with the Conservation Easement.
- (5) Amendment. The provisions of the Conservation Easement may not be amended without the prior written approval of the District.

- (n) **Animals.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept within the Property other than common household pets. Under no circumstances shall any commercial or business enterprises involving the use, care, breeding, raising, keeping, or treatment of animals be conducted on the Property. All pets shall be kept on a leash when not on the pet owner's Lot and no pet shall be allowed to roam unattended. No pet shall be permitted to place or have excretion on any portion of the Property other than the Lot of the owner of the pet, unless such pet owner physically removes any such excretion(s) from that portion of the Property. The Association may, from time to time, publish, and impose reasonable regulations setting forth the type and number of animals that may be kept on the Property. Any pet that the Board in its sole discretion determines to be a nuisance or a menace shall be permanently removed from the Lot upon request of the Board.
- (o) **Signs.** No sign of any kind shall be displayed to the public view on any Lot, or mounted to or in any vehicle parked or operated within the Property, without the prior written consent of the ARC, except that:
- (1) "For Sale" sign that is no larger than four square feet (4 sq. ft.) may be erected or displayed to the public view on any Lot;
 - (2) one sign, which is no larger than one square foot (1 sq. ft.), that indicates the name of the resident or realtor involved in selling a Lot may be erected or displayed to the public view on any Lot;
 - (3) a reasonable number of political signs; provided, however, that (i) no such sign exceeds four square feet (4 sq. ft.) and (ii) all such signs are removed within forty-eight hours after the election for which such sign(s) was placed; and
 - (4) each Lot may display one sign per entrance, within Ten feet of any entrance to the Dwelling thereon, not more than one square foot, provided by a contractor for security services indicating the use of such services by the Owner of the Dwelling thereof.
- Notwithstanding the foregoing, the sign restrictions of this Paragraph shall not apply to marketing signs placed by the Declarant, and its successors and assigns.
- (p) **Trash and Garbage.** No refuse, rubbish, garbage, or trash shall be dumped, deposited, placed, or allowed to accumulate on any adjoining Lot or any other portion of the Property except in covered or sealed containers. All such garbage and trash containers shall, at all times except on the night before regularly scheduled garbage and trash pick-up days, be stored within a walled-in or landscaped area such that the container(s) are not visible from any adjoining Lot or from any street. All trash containers shall be kept and maintained in a clean condition with no noxious or offensive odors emanating therefrom.
- (q) **Storage Tanks.** Except for propane tanks attached to portable grills, no storage tanks, including but not limited to, those for oil, propane gas or other liquid, fuels or chemicals, including those used for swimming pools or the like, shall be permitted outside of a Dwelling unless the same is approved by the ARC and

shall be underground or placed inside of or behind opaque walls, landscaping screens, or similar type enclosures approved by the ARC. In no event shall any of the same be visible from any adjoining Lot or adjacent street(s).

- (r) **Vehicles and Recreational Equipment.** Commercial Vehicles, Recreational Vehicles, Ancillary Vehicles, or any inoperable Passenger Vehicles (which shall include a Passenger Vehicle that is not properly licensed and/or registered to be operated on the public streets of Florida), shall not be parked, kept or stored anywhere on the Property, except as expressly authorized by, or pursuant to, this Declaration. Such vehicles however, may be parked, kept, or stored within the Property if within an enclosed garage. Notwithstanding the foregoing, a vehicle that may be deemed a commercial vehicle merely because of the presence of commercial lettering and/or logos on the exterior thereof may be parked, kept, or stored in the same manner as a Passenger Vehicle.
- (1) All vehicles, including the operation thereof, within the Property shall comply with all applicable state and local laws and ordinances.
 - (2) No vehicle may be parked overnight in the Common Area except at the Clubhouse amenity parking lot with notice and permit from Association management.
 - (3) No vehicle may be parked overnight on any street(s) within the Property unless such vehicle is parked in a designated on-street parking area.
 - (4) No Commercial Vehicles, Recreational Vehicles, Ancillary Vehicles, or inoperable Passenger Vehicles shall be permitted to be parked or to be stored at any place on any portion of the Property unless parked within a garage, or are located on a Lot so that such vehicle(s) cannot be seen from any street and shielded from view from any adjoining Lot. Notwithstanding the foregoing, an Owner may not store boats, boat trailers, or motor homes on such Owner's Lot.
 - (5) Notwithstanding anything contained herein to the contrary, this Article VIII, Section 9.04(r) shall not be deemed to prohibit (i) the occasional parking of Commercial Vehicles, Recreational Vehicles, or Ancillary Vehicles, being used as transportation by guests, the duration and frequency of which may be regulated by the Rules and Regulations (in no event shall there be any overnight camping or other residential use of a Recreational Vehicle on the Property); (ii) temporary parking of a Commercial Vehicle carrying out the business or service provided to a Lot, such as making deliveries or service calls, or for temporary loading or unloading; (iii) temporary parking of a Recreational Vehicle for loading or unloading, or temporary parking of a Recreational Vehicle of a guest if approved by the Board, or as may be allowed by the Rules and Regulations (in no event to exceed twelve hours); or (iv) such parking, storage or use by an occupant of such specified Ancillary Vehicles as may be expressly permitted by the Rules and Regulations, or expressly authorized in advance by the Board.

- (6) Recognizing that the design and use of a vehicle evolves over time, and that on occasion it may be difficult to determine whether a specific vehicle falls into one classification or another, it is the intent of this Article VIII, Section 9.04(r) that vehicles of a customary size, the purpose and use of which is predominantly for personal transportation, shall be deemed a Passenger Vehicle, and vehicles classified as Commercial Vehicles are those which by virtue of design, size, nature, use, or appearance are such as to most nearly fall within the Commercial Vehicle classification, the open parking of which within the Property would tend to degrade the appearance and values of the Property and Units. The Board shall have the authority to adopt and amend standards of interpretation of this Section 9.04(r) as well as the definitions of each of Ancillary Vehicles, Commercial Vehicles, Passenger Vehicles, and Recreational Vehicles – as part of the Rules and Regulations, providing in more detail for the delineation of different vehicles and vehicle types, including further determination of which classification of vehicle is applicable to a specific vehicle. In making such determinations, the Board may consider the general appearance and condition of the vehicle in question. Where any specific vehicle is not clearly and unambiguously addressed by this Section 9.04(r), or by the Rules and Regulations, the Board may determine the restrictions applicable thereto. All such determinations and standards adopted by the Board shall be conclusive for all purposes, and binding on all Owners, occupants, tenants and/or guests.
- (7) Any such vehicle or recreational equipment parked in violation of these or other regulations contained herein, or in the Rules and Regulations adopted by the Association, may be towed by the Association at the sole risk and expense of the owner of such vehicle or recreational equipment if it remains in violation for (i) a period of twenty-four (24) consecutive hours; or (ii) forty eight (48) non-consecutive hours within any seven (7) day period. The Association shall not be liable to the owner of such vehicle or recreational equipment for trespass, conversion, or otherwise, nor guilty of any criminal act by reason of such towing. Neither the removal of a vehicle or recreational equipment, nor the failure of the owner thereof to receive any notice of said violation, shall be grounds for relief of any kind.
- (s) **Vehicle Repairs.** Maintenance and repairs to vehicles must be completed within an enclosed garage or otherwise shielded from view of other Lots.
- (t) **Temporary Buildings/Structures.** No structure or building of a temporary and/or portable nature or character, including but not limited to, a trailer, tent, shack, shed, barn, tree house, or other outbuilding or accessory building, shall be erected, installed, placed, or permitted to remain on any portion of the Property.
- (u) **Nuisance.** No obnoxious, unpleasant, unsightly, or offensive activity or condition shall be carried on, done, or suffered on any Lot that can be reasonably construed to constitute a nuisance, whether public or private in nature. Any questions with regard to the interpretation of whether an activity and/or condition is a nuisance shall be decided by the Board, in its sole discretion, whose decision shall be final.

- (v) **Mining.** Without the prior written consent of the Association, no portion of the Property shall be used for the purpose of boring, mining, quarrying, exploring for, or removing oil or other hydrocarbons, minerals, gravel, or earth.
- (w) **Shutters; Awnings.** No Owner shall install any shutters (including hurricane shutters), awnings, or other decorative trim to the exterior of a Dwelling unless (i) the same are of a type approved by the Association; and (ii) the Owner has obtained the prior written consent of the ARC for the installation thereof. The Board may adopt rules that require hurricane shutters to be removable and/or retractable to the extent the shutters are reasonably shielded from view and painted to match the color of the Dwelling; however, no accordion type shutters shall be permitted under any circumstance.
- (x) **Fences/Walls.** No wall or fence may be erected on a Lot without the prior written consent of the ARC, which consent may be determined on a case by case basis or be mandated, approved and enforced by rules and regulations adopted and modified from time to time.
- (y) **Lighting.** No exterior lighting fixtures for flood lights and/or spot lights shall be installed on any Dwelling or Lot without adequate and proper shielding of fixtures and without prior written approval of the ARC.
- (z) **Swimming Pools.** Any swimming pool, screening, or fencing related thereto to be constructed on any Lot shall be subject to the approval and requirements of the ARC. Above-ground swimming pools shall not be permitted.
- (aa) **Trees.** Tree removal on any Lot must be approved by the Association and any tree replacement must be as specified in the Reserve at Victoria landscape plan approved by the City for subdivision approval. Non-exclusive easements are hereby granted in favor of the Association throughout the Property as may reasonably be necessary for the Association to ensure the preservation and maintenance of all required landscaping and trees on the Property, including any Lot therein, pursuant to those subdivision and construction plans approved by the City. Further, the Association has the right to enter onto any Lot in order to maintain compliance with the Reserve at Victoria landscape plan approved by the City for subdivision approval, included but not limited to installation of any tree removed and will be invoiced to owner in the event the tree is removed without approval. This includes trees along the street, known as "street trees."

9.05 Other Restrictions Established by the Association. The Association shall have the right and authority, as hereinabove expressed, from time to time to include within its promulgated residential planning criteria other restrictions, including additional Rules and Regulations, as it shall deem appropriate. Said restrictions shall be governed in accordance with the criteria hereinabove set forth for residential planning criteria promulgated by the Association. However, once the Association promulgates certain restrictions, same shall become as binding and shall be given the same force and effect as the restrictions set forth herein until the Association modifies, changes, or promulgates new restrictions set forth by the Association.

- 9.06 Property Maintenance.** The association shall maintain each Owner's Lot, including the vegetation, landscaping, and all improvements thereon in good repair and in a neat and attractive condition. The addition of landscaping by an owner is strictly prohibited without approval by the ARC and may be subject to additional maintenance fee.
- (a) The minimum, but not exclusive, standard for maintenance of improvements shall be consistent with the approved plans and specifications for those improvements and with the general appearance of the other Lots in the Property as a whole. The maintenance obligation of each Owner as to building improvements shall include, without limitation, maintenance of all exterior surfaces and roofs, facias and soffits, awnings, trellises, decorative facades, screens, windows, and doors. Owners shall clean, repaint or restrain, as appropriate, the exterior portions of the building improvements (with the same colors as initially approved or with other colors upon ARC approval), including exterior surfaces of garage doors, as often as is necessary to comply with the foregoing standards.
 - (b) In the event an Owner of any Lot shall fail to maintain the premises and improvements situated thereon in a manner satisfactory to the Association, the Owner shall be notified and given thirty (30) days within which to correct or abate the situation. If the Owner fails to timely correct or abate such failure to maintain, the Association shall have the right, but not the obligation, to enter upon the Lot for the purpose of repairing, maintaining, and/or restoring the Lot and the exterior of the Dwelling thereon, and any other improvements on such Lot, at the sole cost of the Owner of such Lot, levied as an Individual Assessment against such Lot.
- 9.07 Association Waiver.** In the event that a violation of any of these restrictions shall inadvertently occur, which violation shall not be of such nature to defeat the intent and purpose of these covenants, the Association shall, in its sole discretion, have the right and authority to waive such violation.

ARTICLE X

DEVELOPMENT APPROVALS

- 10.01 In General.** The Reserve at Victoria is a development within the City limits of the City of DeLand in Volusia County intended to be developed in multiple phases in accordance with the permits and approvals issued by the City, County and governmental agencies ("Development Approvals") which govern its overall development.
- 10.02 Scope and Affect.** No portion of the Property shall be used for any purpose or in any manner inconsistent with the Development Approvals. Any violation of the Development Approvals shall be a violation hereof and the Developer shall have the right to enforce the provision hereof regarding the Development Approvals against any person in violation thereof. That notwithstanding, no provision this Declaration is intended to impose any requirement on Developer or to enlarge the scope of any provision of the Development Approvals or create any right in any person to enforce the provisions of the Development Approvals except as may be specifically provided herein or otherwise created by applicable law.

- 10.03 Dedication of Lands.** Developer hereby reserves the right, in addition to any other right reserved by the Developer anywhere herein, to dedicate or cause the Association to dedicate any portion of the Property to an appropriate governmental or quasi-governmental agency for such purposes as may be provided by the Development Approvals. That notwithstanding, the provisions of this Article are not intended to require, declare, dedicate or to cause the Association to dedicate any portion of the Property to any governmental or quasi-governmental agency, except as the Developer deems appropriate.
- 10.04 Changes to Development Approvals.** Developer reserves the absolute right, power and authority, in addition to any other right reserved by the Developer herein, to inaugurate and implement any variations from, modifications to, or amendments of the Development Approvals in any manner and for any purpose Developer deems appropriate for the development of the Property or the Additional Property. Further, no other person shall have the right to inaugurate or implement any such variations, modifications or amendments of the Development Approvals without the prior written consent of the Developer.
- 10.05 Responsibilities Under the Development Approvals.** Developer hereby reserves the right to the extent permitted by the Development Approvals to delegate or to contract concerning any or all of its responsibilities thereunder, including without limitation, maintenance of Common Property and monitoring of environmental or other conditions to or with the Association or any other person, exclusively or non-exclusively, and on a permanent or temporary basis, which delegation may be subject to such terms and conditions as may be acceptable to Developer. Developer shall have the right, at any time, to terminate such delegation and perform such functions itself or delegate the same to another person. The Association, or any other person having responsibilities regarding any portion of the Property which arise directly under the Development Approvals by delegation from another person having such responsibilities shall cooperate fully with each other and all persons having responsibilities under the Development Approvals to ensure such responsibilities are carried out to the full extent required thereunder. Further, Developer and the Association shall have the right, but not the obligation, to perform any functions required of any person by delegation or directly under the Development Approvals upon such person's failure to properly perform such functions.
- 10.06 Developer Rights.** Notwithstanding anything to the contrary herein, the Developer hereby reserves for itself, its successors and assigns, and all such builders as Developer may from time to time designate, the right to undertake any and all such activities as are necessary or convenient to develop the Property in any manner permitted pursuant to the Development Approvals, including without limitation, the right to construct improvements within the Property, to sell and market homes within the Property (including the right to install and operate sales trailers) and to engage in any and all activities in connection therewith. Further, the Developer reserves for itself, its successors and assigns the right to amend, modify or rescind such parts of this Declaration or any recorded plat for The Reserve at Victoria PD, in its sole discretion, deems necessary or desirable prior to Turnover so long as: (a) it is still designated the Declarant of the property to which the replat or Declaration amended (whichever is appropriate) applies; or (b) such amendment or modification does not substantially change the character, nature, or general scheme of development of the subdivision. Neither the foregoing amendments nor Declarant's exercise of the foregoing rights require the concurrence of the Association or individual Owners of Lots or Dwelling Units. Any amendment to the

covenants and restrictions which alter any provision relating to the surface water or stormwater management system beyond maintenance in its original condition, including the water management portions of the Common Areas, must have the prior written approval of the St. Johns River Water Management District.

ARTICLE XI

COMPLIANCE AND ENFORCEMENT

11.01 Compliance With Documents. Each Owner, and such Owner's family members, guests, licensees, invitees, tenants, and all occupants or residents of a Lot, shall be bound and abide by the Governing Documents. The conduct of any and all of the foregoing Persons shall be considered to be the conduct of the Owner responsible for, or connected in any manner therewith, such individual's presence within the Property. Such Owner shall be liable to the Association for the cost of any maintenance, repair, or replacement of any real or personal property rendered necessary by her/his act, neglect, or carelessness, or by that of any other of the foregoing parties, which shall be levied as an Individual Assessment against such Owner's Lot. Failure of an Owner to notify any Person of the existence of the Governing Documents, or any provision thereof, shall not in any way act to limit or divest the right to enforcement of the Governing Documents against the Owner or such other Person.

11.02 Enforcement. In the event of an Owner, or such Owner's family members, guests, licensees, invitees, tenants, and all occupants or residents of a Lot, violates any provision of the Governing Documents, the Association shall have the right and authority to pursue any and all of the following:

- (a) imposition of sanctions for violations of the Governing Documents, including reasonable monetary fines, and the suspension of the right to vote;
- (b) commencement of any legal proceeding (i) for specific performance to comply with the Governing Documents on the part of an Owner, including such Owner's family members, guests, licensees, invitees, tenants, and all occupants or residents of such Owner's Lot; and/or (ii) to recover damages, including the attorneys fees and costs incurred in enforcement of the Governing Documents; and/or;
- (c) entering onto a Lot to exercise self-help to cure any violation, including taking any and all actions reasonably necessary to correct such violation, which may include (without limitation) removing any building, thing, or improvement on a Lot that fails to comply with this Declaration; to perform any maintenance required to be performed; or to otherwise take any action to bring a Dwelling or Lot into compliance with this Declaration. All expenses incurred in exercise of the Association's right to self-help shall be levied as an Individual Assessments against the Lot upon which such self-help was exercised by the Association.

11.03 Fining.

- (a) **Notice.** No fine may be imposed without at least fourteen (14) days' notice to the Person sought to be fined and an opportunity for a hearing before a committee of at least three (3) members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister

thereof. If the committee, by majority vote, does not approve a proposed fine, it may not be imposed. If the Association imposes a fine, the Association must provide written notice of such fine by mail or hand delivery to the Person so fined. Notwithstanding the foregoing, the requirements of this Section 10.03(a) shall not apply to any failure to timely pay any Assessment or other monetary obligation due to the Association.

- (b) **Amount of Fine.** For any one-time violation, such fine may not exceed the greater of One Hundred Dollars (\$100.00) or the maximum amount permitted by law. For any violation that is a continuing violation, such fine may be levied on a daily basis each day the violation continues in a daily amount equal to the greater of One Hundred Dollars (\$100.00) or the maximum amount permitted by law, such that the total amount of a fine for a continuing violation shall not exceed the greater of One Thousand Dollars (\$1,000.00) or the maximum amount permitted by law. For purposes of this Article IX, the term "continuing violation" shall mean and refer to any activity or condition that is in violation of a provision of the Governing Documents from the moment it is first commenced and continuing until such time that the activity or condition ceases to exist or occur. If an activity or condition that is discontinued and/or ceases to exist is subsequently resumed, such resumed activity or condition shall be deemed a separate violation for each period of time in which it exists or occurs and shall not be deemed to be part of the prior continuing violation.

- 11.04 **Rights Cumulative.** The rights of the Association under this Declaration shall be cumulative and not exclusive of any other right or available remedy. The Association's pursuit of any one or more of its rights or remedies shall not constitute an election of remedies excluding the election of another right, remedy or other remedies, or a forfeiture or waiver of any right or remedy or of any damages or other sums accruing to the Association by reason of any obligated Person's failure to fully and completely keep, observe, perform, satisfy and comply with all of the covenants, restrictions and easements set forth in this Declaration.
- 11.05 **No Waiver.** No waiver by the Association of any right or remedy on one occasion shall be construed as a waiver of that right or remedy on any subsequent occasion or as a waiver of any other right or remedy then or thereafter existing. The Association's (i) forbearance in pursuing or exercising one or more of its rights or remedies; (ii) failure to enforce any of the covenants, restrictions and easements set forth in this Declaration; or (iii) to promptly pursue and exercise any right or remedy contained in this Declaration, shall not be deemed or construed to constitute a waiver of any other right or remedy or any waiver of the further enforcement or the provision or the exercise of the right or remedy that was the subject of the forbearance or failure.
- 11.06 **Certificate as to Default.** For a reasonable charge, upon request by any Owner, or mortgagee holding a mortgage encumbering any Lot, any payment of such charge, the Association shall execute and deliver a written certificate as to whether such Owner and/or Owner's Lot is in default with respect to compliance with the terms and provisions of this Declaration.

ARTICLE XII

INDEMNIFICATION

12.01 Indemnification. The Association shall indemnify any Person who was or is a party, or is threatened to be made a party, to any threatened, pending, or contemplated action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that such Person is or was a director, employee, officer, or agent of the Association, against expenses (including attorney's fees and appellate attorneys' fees), judgment, fines, and amounts paid in settlement actually and reasonably incurred by such Person in connection with such action, suit, or proceeding if such Person acted in good faith and in a manner such Person reasonably believed to be in, or not opposed to, the best interests of the Association; and, with respect to any criminal action or proceeding, if such Person had no reasonable cause to believe her/his conduct was unlawful; or matter as to which such Person shall have been adjudged to be liable for gross negligence or willful misfeasance or malfeasance in the performance of such Person's duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine, upon application, that despite the adjudication of liability, but in view of all the circumstances of the case, such Person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, in and of itself, create a presumption that the Person did not act in good faith and in a manner in which such Person reasonably believed to be in, or not opposed to, the best interests of the Association; and with respect to any criminal action or proceeding, that such Person had no reasonable cause to believe that her/his conduct was unlawful.

- (a) To the extent that a director, officer, employee, or agent of the Association is entitled to indemnification by the Association in accordance with this Article X, she/he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by her/him in connection therewith.
- (b) The indemnification provided by this Article X shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the laws of the State of Florida, any Bylaw, agreement, vote of Members, or otherwise. As to action taken in an official capacity while holding office, the indemnification provided by this Article X shall continue as to a Person who has ceased to be a director, officer, employee, or agent, and shall inure to the benefit of the heirs, executors, and administrators of such a Person.
- (c) The Association shall have the power to purchase and maintain insurance on behalf of any Person who is or was a director, officer, employee, or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against such Person and incurred by such Person in any such capacity, or arising out of such Person's status as such, whether or not the Association would have the power to indemnify such Person against such liability under the provisions of this Article X.

ARTICLE XIII **GENERAL PROVISIONS**

13.01 Duration. The covenants, conditions, and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the

Association; any Owner; and the respective legal representatives, heirs, successors, and assigns of all of the foregoing thereof, for a period of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically renewed and extended for successive ten (10) year periods.

- 13.02 Enforcement.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed under this Declaration.
- 13.03 Attorneys Fees.** In connection with any action to enforce the Governing Documents, the prevailing party shall be entitled to its reasonable attorneys' fees and costs at all pre-trial, trial, appellate levels, and post judgment levels, whether or not litigation is commenced.
- 13.04 Severability.** Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.
- 13.05 Amendment.** Except as otherwise provided in Section 10.06, this Declaration may be amended at any time by an instrument signed by the President or Vice President and the Secretary or Assistant Secretary of the Association, certifying that such amendment has been approved by at least two thirds (2/3rds) of the Members present in person or by proxy at a duly constituted meeting of the Association or by written consent. The amendment shall become effective upon its filing in the public records of the County. Provided, however, that as long as Developer is an Owner of any Lot, no amendment shall become effective without the written consent of Developer.
- 13.06 Notice.** Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing. It is the responsibility of the Member or Owner to ensure that the Association has such Member's or Owner's latest and correct mailing address.
- 13.07 Conflict.** In the event of any conflict or inconsistency between this Declaration, the Reserve at Victoria PD, the Articles, and/or the Bylaws, (i) the provisions of the Reserve at Victoria PD shall control over the provisions of the Declaration, Articles and the Bylaws; (ii) the provisions of this Declaration shall control over the provisions of the Articles and the Bylaws; and (iii) the provisions of the Articles shall control over the provisions of the Bylaws.
- 13.08 Construction.** The Article and Section headings contained throughout this Declaration have been inserted for convenience only and shall not be considered in resolving questions of interpretation or construction. All terms and words used in this Declaration, regardless of the number and/or gender in which they are used, shall be deemed and construed to include any other number, and any other gender, as the context or sense requires.
- 13.09 Governing Law.** The provisions of this Declaration shall be construed under and subject to the laws of the State of Florida as constituted as of the date of recordation of the Original Declaration, unless otherwise expressly stated elsewhere herein; provided, though, that if any specific provision of this Declaration expressly states that any

amendments to the laws of the State of Florida control, then such amended law only controls with respect to such specific provision so expressly stating.

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

13.11 Waivers, Exceptions, and Variances by Association. Notwithstanding anything to the contrary set forth in or which may otherwise be implied from the terms and provisions of this Declaration, the Board shall have the right and authority upon a showing of good cause therefor to: (i) grant waivers with respect to any existing or proposed future deviation from, or violation or infraction of, the restrictions specified in this Declaration where, in the reasonably exercised good faith judgment and discretion of the Board, the Board shall determine or decide that such deviation, violation, or infraction is de minimis, minor, or insignificant; and (ii) grant waivers of, exceptions to, or variances from, the restrictions specified in this Declaration where special conditions and circumstances exist that are peculiar to a particular Lot and not generally applicable to other Lots (*e.g.*, because of its unusual size, configuration, or location) or where a literal interpretation or application of any restriction to a particular Lot would be inappropriate, inequitable, or otherwise work or result in a hardship or deny such Lot and the Owner thereof specific rights that are generally enjoyed by other Lots and Owners; it being expressly provided, however, that in all cases the Board, in the exercise of such right and privilege shall, in its reasonably exercised and good faith judgment and discretion, determine or decide that its grant of any such waiver, exception, or variance shall not result in, represent, be, or constitute a significant deviation of or derogation from (a) the uniform plan of development for the Property, (b) the architectural, ecological, environmental, and aesthetic standards otherwise established for the Property, or (c) the objects and purposes of this Declaration as hereinabove enumerated. To the extent any such waiver, exception, or variance is granted in a particular instance or with respect to any particular Lot pursuant to the provisions of this Article XI, the same shall not be deemed to be a precedent for the granting of such or any similar waiver, exception, or variance in any other particular instance or any other particular Lot.

13.12. Condemnation. In the event all or part of the Common Property owned by the Association shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be paid to the Association. The Board of Directors shall have the right to act on behalf of the Association with respect to the negotiation and litigation of the taking or condemnation affecting such Property. The damages from such condemnation shall be applied to repair and reconstruction of the improvements. If the improvements cannot be repaired or restored the damages shall be deposited in Association account and be used as approved by the Board.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed in its name, this 26TH day of JANUARY, 2022.

Signed, sealed and delivered
in the presence of:

DECLARANT/DEVELOPER
AJP I OF VOLUSIA, LLC



Printed Name: Lisa G. White



Printed Name: JAMES W. PANTAS, III

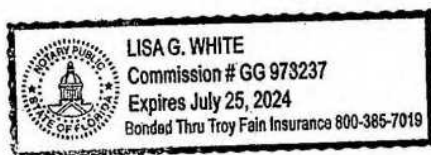
Title: AUTHORIZED MEMBER



Printed Name: TINA JAMIESON

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 26TH day of JANUARY, 2022, by JAMES W. PANTAS, III, as AUTHORIZED MEMBER of AJP I OF VOLUSIA, LLC, ☒ who is personally known to me or ☐ who has produced the following as identification: _____ and who did not take an oath.





Notary Public
My Commission Expires:

Exhibit "A"
Property

LEGAL DESCRIPTION:

LANDS SITUATED IN SECTION 23, TOWNSHIP 17 SOUTH, RANGE 30 EAST, DELAND, VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE NORTHWEST CORNER OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA; THENCE RUN NORTH 89 DEGREES 09 MINUTES 35 SECONDS EAST, ALONG THE NORTH LINE OF SAID NORTHWEST 1/4 OF SECTION 23, A DISTANCE OF 1325.12 FEET TO THE NORTH 1/4 CORNER OF SAID SECTION 23; THENCE RUN NORTH 89 DEGREES 21 MINUTES 14 SECONDS EAST, ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 23, A DISTANCE OF 1681.51 FEET; THENCE RUN SOUTH 00 DEGREES 24 MINUTES 37 SECONDS EAST, A DISTANCE OF 228.63 FEET; THENCE RUN NORTH 89 DEGREES 21 MINUTES 14 SECONDS EAST, A DISTANCE OF 228.54 FEET TO THE WESTERLY RIGHT OF WAY LINE OF WEST VOLUSIA BELTLINE; THENCE RUN SOUTH 00 DEGREES 24 MINUTES 37 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 2506.60 FEET TO THE SOUTH LINE OF SAID NORTHEAST 1/4 OF SECTION 23; THENCE RUN SOUTH 89 DEGREES 32 MINUTES 37 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 1869.71 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 23; THENCE RUN SOUTH 89 DEGREES 32 MINUTES 41 SECONDS WEST, ALONG THE SOUTH LINE OF THE AFOREMENTIONED NORTHWEST 1/4 OF SECTION 23, A DISTANCE 1325.33 FEET TO THE SOUTHWEST CORNER OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 23; THENCE RUN NORTH 01 DEGREES 15 MINUTES 23 SECONDS WEST ALONG THE WEST LINE OF SAID EAST 1/2 OF THE NORTHWEST 1/4, A DISTANCE OF 2720.27 FEET TO THE POINT OF BEGINNING

Exhibit "B"
Articles of Incorporation

**ARTICLES OF INCORPORATION
FOR
THE RESERVE AT VICTORIA HOMEOWNERS' ASSOCIATION, INC.,
a Florida not-for-profit corporation**

Pursuant to Section 617, Florida Statutes, AJP I OF VOLUSIA, LLC, a Florida limited liability company, whose address is 794 Sanders Road, Suite 1, Daytona Beach, FL 32127, as Incorporator, creates these Articles of Incorporation for the purposes set forth below.

**ARTICLE I
NAME**

The name of the corporation, herein called the "Association," is THE RESERVE AT VICTORIA HOMEOWNERS' ASSOCIATION, INC., and its principal office and mailing address is 794 SANDERS ROAD, SUITE 1, PORT ORANGE, FL 32127.

**ARTICLE II
PURPOSE AND POWERS**

The Corporation is organized exclusively to engage in all lawful acts or activities for which Florida not-for-profit corporations may be organized, including one or more of the following purposes:

The purpose for which the Association is organized is to provide an entity, pursuant to Florida Law, for the maintenance, upkeep and operation of The Reserve at Victoria, a residential subdivision located in the City of Deland, Florida.

The Association is organized and shall exist on a non-stock basis as a corporation not for profit under the laws of the State of Florida, and no portion of any earning of the Association shall be distributed or inure to the private benefit of any member, director or officer. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit under the laws of the State of Florida and of a homeowners' association under Florida law, except as expressly limited or modified by these Articles, the Declaration of Covenants, Conditions and Restrictions (the "Declaration"), and the Bylaws; and it shall have all of the powers and duties reasonably necessary to operate the homeowners' association pursuant to the Declaration as it may hereafter be amended, including but not limited to the following:

- A. To make and collect assessments against members of the Association to defray the costs, expenses and losses of the Association, and to use the funds in the exercise of its powers and duties.
- B. To protect, maintain, repair, replace and operate the common areas and association property.
- C. To purchase insurance for the protection of the Association and its members.
- D. To repair and reconstruct improvements after casualty, and to make further improvements of the common areas and Association property.
- E. To make, amend and enforce reasonable rules and regulations in the manner set forth in the Bylaws and subject to any limitations in the Declaration.

F. To approve or disapprove the transfer, leasing and occupancy of homes, as provided in the Declaration.

G. To enforce the provisions of the Declaration, these Articles, the Bylaws and any Rules and Regulations of the Association.

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

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

J. To borrow money as necessary to perform its other functions hereunder.

K. To grant, modify or move any easement in the manner provided in the Declaration.

L. To own and convey property.

M. To assess homeowners and enforce assessments.

N. To sue and be sued.

O. To contract for services necessary to operate and maintain the Association and any easements dedicated to or for the benefit of the Association including any infrastructure.

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

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

The Association shall levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the surface water or stormwater management system, and the maintenance and repair of the stormwater management systems and mitigation or preservation areas, including but not limited to work within retention areas, drainage structures and drainage easements.

ARTICLE III MEMBERSHIP

A. The members of the Association shall be all record owners of a fee simple interest in one or more lots in The Reserve at Victoria, as further provided in the Bylaws.

B. The share of a member in the funds and assets of the Association cannot be assigned or transferred in any manner except as an appurtenance to his property in The Reserve at Victoria.

C. The owners of lots in The Reserve at Victoria, collectively, shall be entitled to a number of votes in Association matters as set forth in the Declaration. The manner of exercising voting rights shall be as set forth in the Bylaws.

ARTICLE IV EXISTENCE, DURATION AND DISSOLUTION

Existence of the Association shall commence with the filing of these Articles of Incorporation with the Secretary of State, Tallahassee, Florida.

The Association shall exist in perpetuity; however, in the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity which would comply with Rule [REDACTED] F.A.C., and Applicant's Handbook Volume I, Section 12.3., and be approved by the St. Johns River Water Management District prior to such termination, dissolution or liquidation.

ARTICLE V BYLAWS

The Bylaws of the Association may be altered, amended, or rescinded in the manner provided therein.

ARTICLE VI DIRECTORS AND OFFICERS

A. The affairs of the Association shall be administered by a Board of Directors consisting of the number of directors determined by the Bylaws, but not less than three (3) directors, and in the absence of such determination shall consist of three (3) directors.

B. Except for the initial directors appointed by the Declarant, directors of the Association shall be elected by the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

C. The business of the Association shall be conducted by the officers designated in the Bylaws. The officers shall be elected each year by the Board of Directors at its first meeting after the annual meeting of the members of the Association, and they shall serve at the pleasure of the Board.

ARTICLE VII INITIAL DIRECTORS

The initial directors of the Association shall be:

<u>Name</u>	<u>Address</u>
JAMES PAYTAS JR	794 SANDERS ROAD, SUITE 1, PORT ORANGE, FL 32127
JAMES PAYTAS III	794 SANDERS ROAD, SUITE 1, PORT ORANGE, FL 32127
JAMES MATHER	794 SANDERS ROAD, SUITE 1, PORT ORANGE, FL 32127

ARTICLE VIII AMENDMENTS

Amendments to these Articles shall be proposed and adopted in the following manner:

- A. Proposal. Amendments to these Articles may be proposed by a majority of the Board or by a written petition to the Board, signed by at least two-thirds (2/3) of the voting interests of the Association.
- B. Vote Required. A proposed amendment shall be adopted if it is approved by at least two-thirds (2/3) of the voting interests who are present and voting, in person or by proxy, at any annual or special meeting called for the purpose.
- C. Certificate; Recording. An amendment shall become effective upon filing with the Secretary of State and recording a Certificate of Amendment in the Public Records of Volusia County, Florida, with the formalities required by Florida law.

ARTICLE IX INDEMNIFICATION

To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every director and every officer of the Association against all expenses and liabilities, including attorneys' fees, actually and reasonably incurred by or imposed on him in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he may be a party because of his being or having been a director or officer of the Association. The foregoing right of indemnification shall not be available if a judgment or other final adjudication establishes that his actions or omissions to act were material to the cause adjudicated and involved:

- A. Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.
- B. A violation of criminal law, unless the director or officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.
- C. A transaction from which the director or officer derived an improper personal benefit.

In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approves such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which a director or officer may be entitled.

ARTICLE X INITIAL REGISTERED AGENT

The initial registered agent and office of the Association shall be:

Name

Address

A. JOSEPH POSEY, ESQUIRE

420 S. NOVA ROAD DAYTONA BEACH, FL 32114

WHEREFORE, the Incorporator has caused these Articles of Incorporation to be executed this 27 day of July, 2021.

WITNESS:

INCORPORATOR:

[Signature]

Name: Lisa WhiteBy: [Signature]

JAMES PAYTAS JR

[Signature]

Name: TINA JAMESONTitle: Director

STATE OF [REDACTED]
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 27 day of July, 2021, by James Paytas Jr, as Director, of AJP 1st Vol, ☒ who is personally known to me or ☐ who has produced the following as identification: _____ and who did not take an oath.

[Signature]
Notary Public
My Commission Expires:

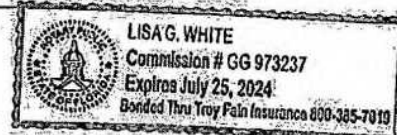
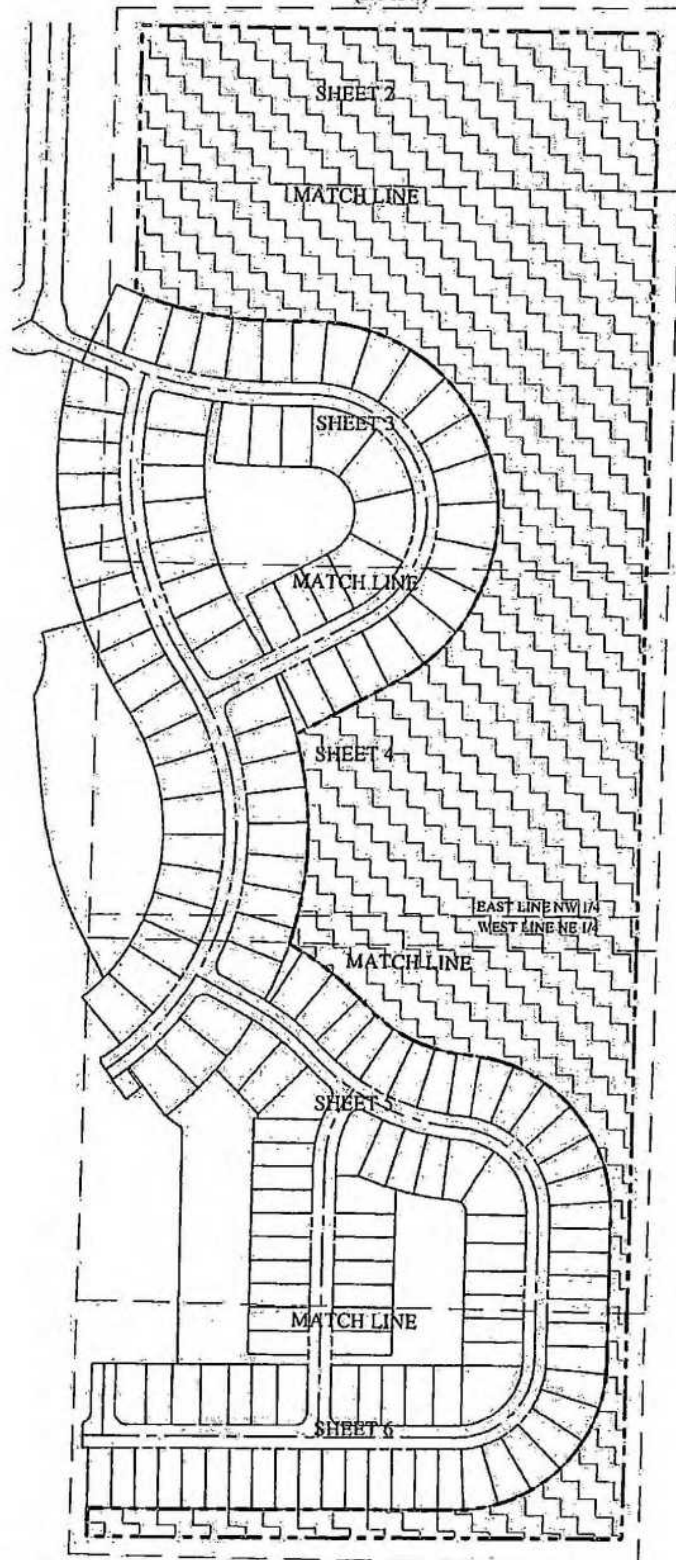


Exhibit "C"
Conservation Easement

CONSERVATION EASEMENT RESERVE AT VICTORIA, PHASE 1

DR. MARTIN LUTHER KING JR. BELTWAY
(W. VOLUSIA BELTLINE) (CR-4101)
(200' R/W)

SCALE 1"=300'



SHEET 1 OF 7

SURVEY IS NOT VALID WITHOUT
SHEETS 1 THROUGH 7 TOGETHER
SEE SHEET 7 OF 7
FOR SURVEYOR'S SIGNATURE

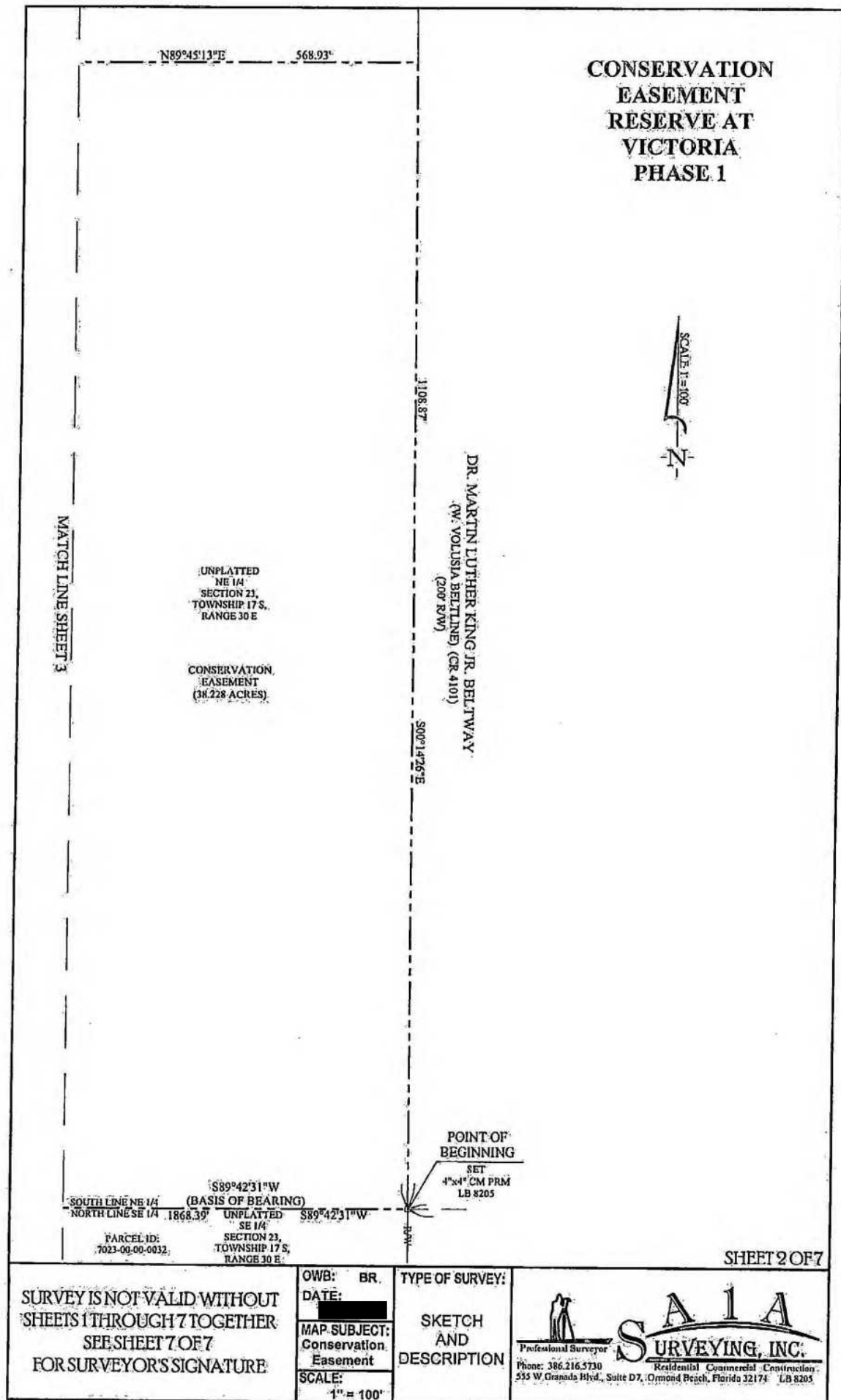
OWB: BR
DATE:
09/04/2020
MAP SUBJECT:
Conservation
Easement
SCALE:
1" = 300'

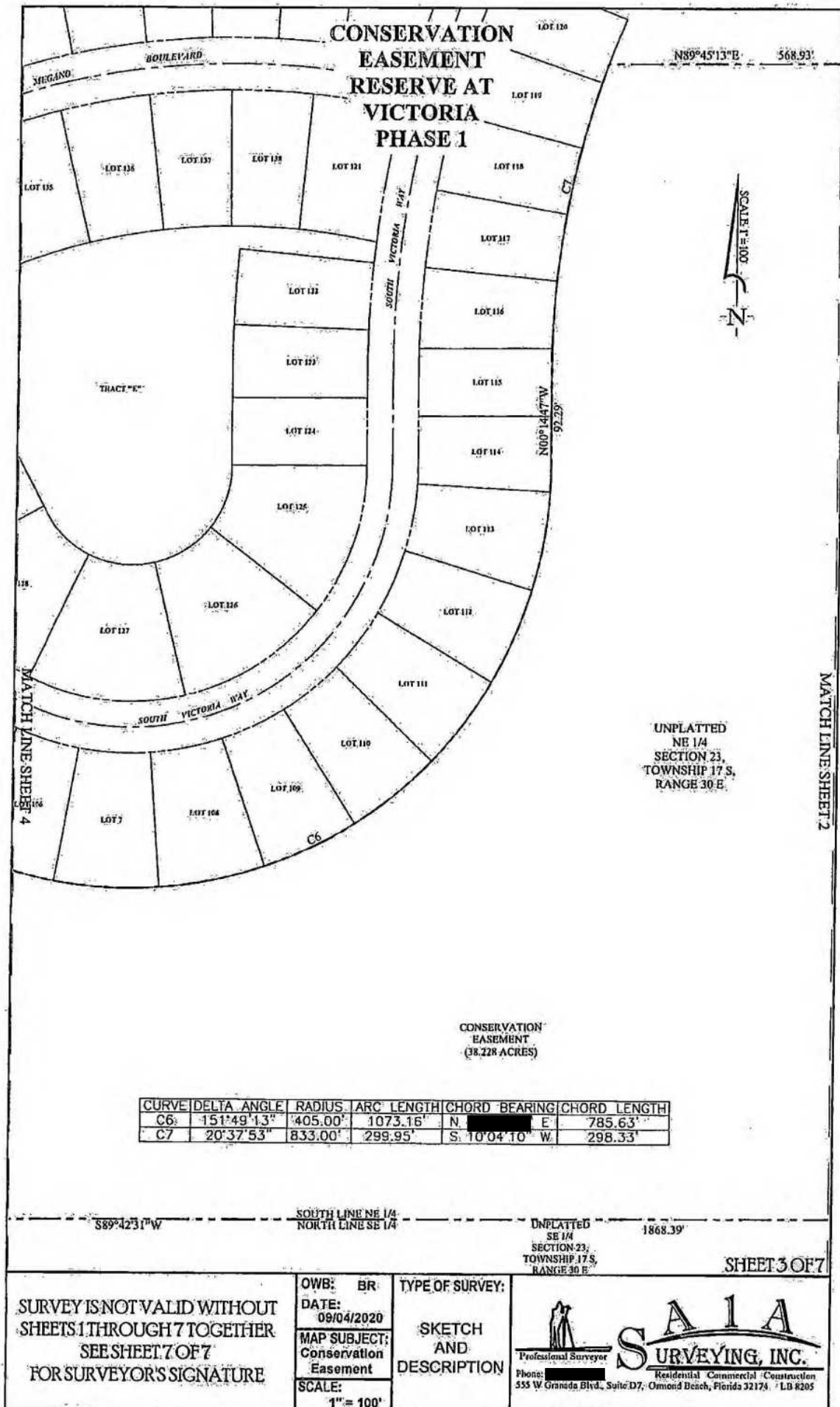
TYPE OF SURVEY:

SKETCH
AND
DESCRIPTION

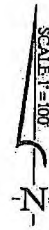
Professional Surveyor
Phone: [REDACTED]

SALA
SURVEYING, INC.
Residential Commercial Construction
555 W. Granada Blvd., Suite D7, Ormond Beach, Florida 32174 LB #205

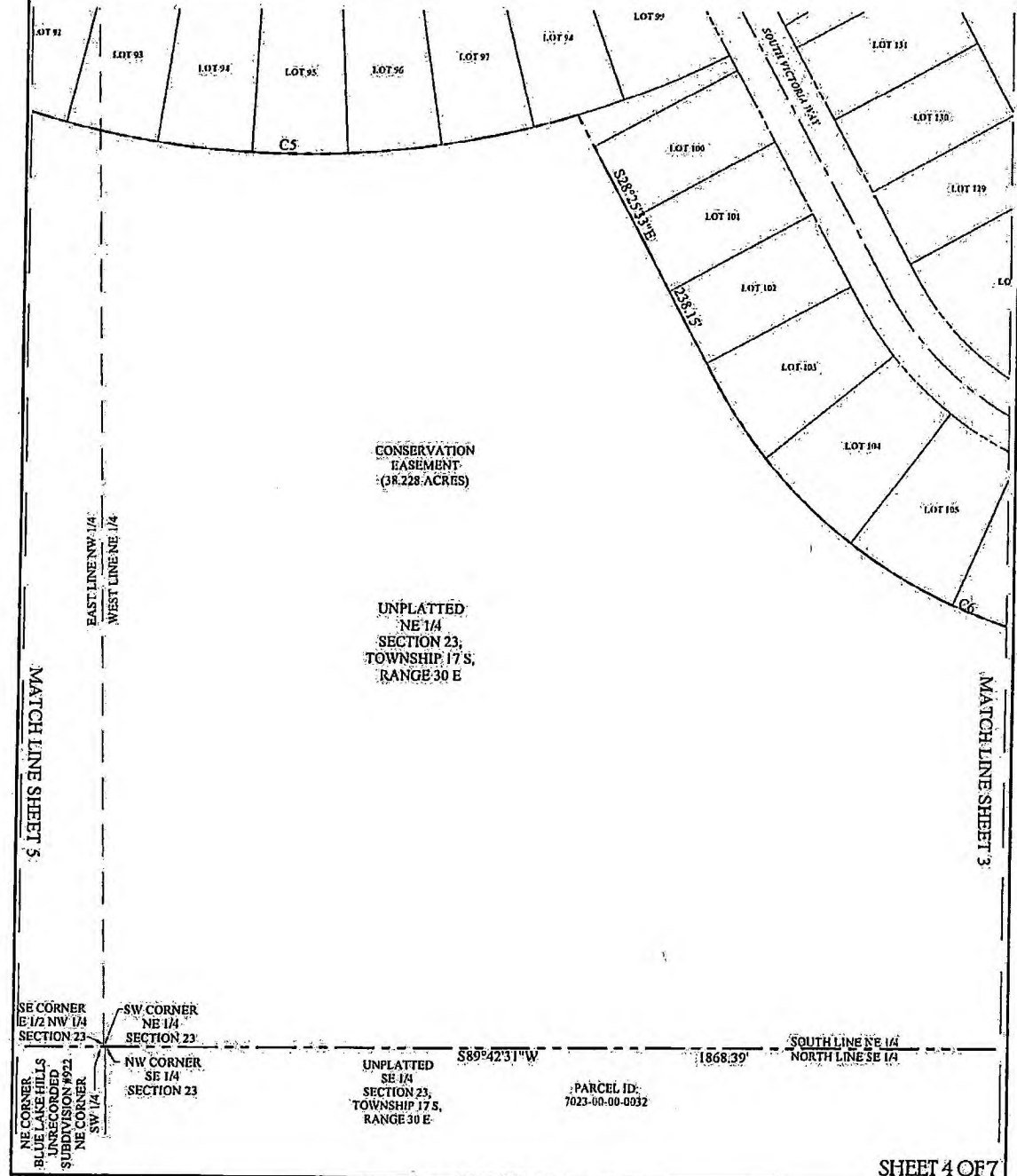




**CONSERVATION
EASEMENT
RESERVE AT
VICTORIA
PHASE 1**



CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C5	33°38'53"	767.00'	450.44'	S 89°56'34" E	443.99'
C6	151°49'13"	405.00'	1073.16'	N 75°39'50" E	785.63'



SHEET 4 OF 7

SURVEY IS NOT VALID WITHOUT
SHEETS 1 THROUGH 7 TOGETHER
SEE SHEET 7 OF 7
FOR SURVEYOR'S SIGNATURE

OWB:	BR
DATE:	09/04/2020
MAP SUBJECT:	Conservation Easement
SCALE:	1" = 100'

TYPE OF SURVEY:
SKETCH
AND
DESCRIPTION.



Professional Surveyor
Phone: 386.216.5730
555 W Granada Blvd.,

SALA SURVEYING, INC.

Residential Commercial Construction
Suite D7, Ormond Beach, Florida 32174 LB 8205

CONSERVATION EASEMENT RESERVE AT VICTORIA PHASE 1

SCALE 1"=100'

N

CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C2	86°37'59"	335.00'	506.53'	S 46°23'32" W	459.64'
C3	43°02'07"	333.00'	250.12'	N 24°35'36" E	244.28'
C4	15°26'37"	667.00'	179.78'	N 38°23'21" E	179.24'



SHEET 5 OF 7

SURVEY IS NOT VALID WITHOUT
SHEETS 1 THROUGH 7 TOGETHER.
SEE SHEET 7 OF 7
FOR SURVEYOR'S SIGNATURE

OWB: BR
DATE: [REDACTED]
MAP SUBJECT:
Conservation
Easement
SCALE:
1" = 100'

TYPE OF SURVEY:

SKETCH
AND
DESCRIPTION

Professional Surveyor
Phone: 386.216.5730
333 W. Granada Blvd., Suite D7, Ormond Beach, Florida 32174 LR #205

SALA
SURVEYING, INC.
Residential Commercial Construction

CONSERVATION EASEMENT RESERVE AT VICTORIA PHASE 1

LEGAL DESCRIPTION:

BEING PORTIONS OF THE NORTHEAST ONE-QUARTER AND THE EASTERLY ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SECTION 23, TOWNSHIP 17 SOUTH, RANGE 30 EAST, CITY OF DELAND, VOLUSIA COUNTY, FLORIDA.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER (1/4), SECTION 23, TOWNSHIP 17 S, RANGE 30 E, VOLUSIA COUNTY, FLORIDA AND THE WESTERLY RIGHT-OF-WAY LINE OF DR. MARTIN LUTHER KING BLVD (ALSO KNOWN AS WEST VOLUSIA BELTLINE & C.R. 4101) (A 200' RIGHT-OF-WAY AS MONUMENTED PER COUNTY OF VOLUSIA, RIGHT-OF-WAY MAPS - PARCEL MAPS, DRAWING NO. 2129, PROJECT NO. 1113.2, DATED LAST REVISION SEPTEMBER 24, 1992), SAID POINT BEING A 4 INCH BY 4 INCH CONCRETE MONUMENT STAMPED PRM LB 8205; THENCE SOUTH 89 DEGREES 42 MINUTES 31 SECONDS WEST, ALONG THE SOUTH LINE OF SAID NORTHEAST ONE-QUARTER (1/4), SECTION 23, A DISTANCE OF 1869.39 FEET TO THE SOUTHWEST CORNER OF THE SAID NORTHEAST ONE-QUARTER (1/4), SAID POINT BEING A 4 INCH BY 4 INCH CONCRETE MONUMENT (ILLEGIBLE); THENCE SOUTH 89 DEGREES 42 MINUTES 26 SECONDS WEST ALONG THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER (1/4) OF SAID SECTION 23, A DISTANCE OF 1325.35 FEET TO THE SOUTHWEST CORNER OF THE EAST ONE-HALF (1/2) OF SAID NORTHWEST ONE-QUARTER (1/4), SAID POINT BEING A 4 INCH BY 4 INCH CONCRETE MONUMENT STAMPED RLS 1834; THENCE DEPARTING SAID SOUTH LINE NORTH 01 DEGREES 05 MINUTES 35 SECONDS WEST, ALONG THE WESTERLY LINE OF SAID EASTERLY ONE-HALF (1/2) OF THE NORTHWEST ONE-QUARTER (1/4), SECTION 23, A DISTANCE OF 1144.36 FEET TO A POINT ON THE EASTERLY LINE OF LOT 9, SHADY MEADOW ESTATES, AS RECORDED IN MAP BOOK 50, PAGES 189 THROUGH 191, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID POINT BEING A 4 INCH BY 4 INCH CONCRETE MONUMENT STAMPED PRM LB 8205; THENCE DEPARTING SAID WEST LINE NORTH 88 DEGREES 55 MINUTES 11 SECONDS EAST, A DISTANCE OF 60.18 FEET; THENCE SOUTH 01 DEGREES 04 MINUTES 49 SECONDS EAST FOR A DISTANCE OF 789.54 FEET TO A POINT OF CURVE, CONCAVE NORTHERLY AND TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE 89 DEGREES 12 MINUTES 40 SECONDS; A RADIUS OF 320.00 FEET, A CHORD BEARING OF SOUTH 45 DEGREES 41 MINUTES 09 SECONDS EAST, A CHORD DISTANCE OF 449.42 FEET; THENCE ALONG THE ARC OF SAID 498.25 FEET; THENCE NORTH 89 DEGREES 42 MINUTES 31 SECONDS EAST, A DISTANCE OF 314.09 FEET TO A POINT OF CURVE, CONCAVE NORTHERLY AND TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE 86 DEGREES 37 MINUTES 59 SECONDS; A RADIUS OF 335.00 FEET, A CHORD BEARING OF NORTH 46 DEGREES 23 MINUTES 32 SECONDS EAST, A CHORD DISTANCE OF 459.64 FEET; THENCE ALONG THE ARC OF SAID 506.53 FEET TO A POINT OF REVERSE CURVE, CONCAVE EASTERLY AND TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE 43 DEGREES 02 MINUTES 07 SECONDS, A RADIUS OF 333.00 FEET; A CHORD BEARING OF NORTH 24 DEGREES 35 MINUTES 36 SECONDS EAST, A CHORD DISTANCE OF 244.28 FEET; THENCE ALONG THE ARC OF SAID 250.12 FEET TO A POINT OF REVERSE CURVE, CONCAVE WESTERLY AND TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE 18 DEGREES 17 MINUTES 07 SECONDS; A RADIUS OF 667.00 FEET, A CHORD BEARING OF NORTH 36 DEGREES 58 MINUTES 06 SECONDS EAST, A CHORD DISTANCE OF 211.96 FEET; THENCE ALONG THE ARC OF SAID 212.86 FEET TO A POINT OF COMPOUND CURVE, CONCAVE NORTHERLY AND TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE 33 DEGREES 38 MINUTES 53 SECONDS, A RADIUS OF 767.00 FEET, A CHORD BEARING OF SOUTH 89 DEGREES 56 MINUTES 34 SECONDS EAST, A CHORD DISTANCE OF 443.99 FEET; THENCE ALONG THE ARC OF SAID 450.44 FEET; THENCE SOUTH 28 DEGREES 25 MINUTES 33 SECONDS EAST FOR A DISTANCE OF 238.15 FEET TO A POINT OF CURVE, CONCAVE NORTHERLY AND TO THE LEFT, SAID CURVE HAVING A CENTRAL ANGLE 151 DEGREES 49 MINUTES 13 SECONDS, A RADIUS OF 405.00 FEET, A CHORD BEARING OF NORTH 75 DEGREES 39 MINUTES 50 SECONDS EAST, A CHORD DISTANCE OF 785.63 FEET; THENCE ALONG THE ARC OF SAID 1073.16 FEET; THENCE NORTH 00 DEGREES 14 MINUTES 47 SECONDS WEST FOR A DISTANCE OF 92.29 FEET; TO A POINT OF CURVE, CONCAVE EASTERLY AND TO THE RIGHT, SAID CURVE HAVING A CENTRAL ANGLE 20 DEGREES 37 MINUTES 33 SECONDS, A RADIUS OF 833.00 FEET, A CHORD BEARING OF NORTH 10 DEGREES 04 MINUTES 10 SECONDS EAST, A CHORD DISTANCE OF 298.33 FEET; THENCE ALONG THE ARC OF SAID 299.95 FEET; THENCE NORTH 89 DEGREES 45 MINUTES 13 SECONDS EAST FOR A DISTANCE OF 568.93 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF AFORESAID DR. MARTIN LUTHER KING BOULEVARD, THENCE SOUTH 00 DEGREES 14 MINUTES 26 SECONDS EAST ALONG THE SAID WESTERLY LINE, A DISTANCE OF 1108.87 FEET TO THE POINT OF BEGINNING.

ABOVE DESCRIBED LAND CONTAINS 1,665,215.596 SQUARE FEET OR 38.228 ACRES MORE OR LESS.

GENERAL NOTES:

1. BEARINGS SHOWN HEREON ARE ASSUMED ALONG THE SOUTHERLY LINE OF NE 1/4, SECTION 23, TOWNSHIP 17 S, RANGE 30 EAST BEING (S 89°42'31"W). FOR ANGLE MEASUREMENT ONLY.
2. LEGAL DESCRIPTION NEW PER AIA SURVEYING, INC.

LEGEND:

FL	FLORIDA
LB	LICENSED BUSINESS
LC	LICENSED CORPORATION
LLC	LIMITED LIABILITY COMPANY
LS	LICENSED SURVEYOR
NO	NUMBER
OWB	OFFICE WORK BY
P.B.	PLAT BOOK
PG	PAGE
R/W	RIGHT-OF-WAY

SHEET 7 OF 7

THE FOREGOING PLAT IS CERTIFIED TO MEET THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS AS PER CHAPTER 5117-6, FLORIDA ADMINISTRATIVE CODE, AS PURSUANT TO SECTION 4102, FLORIDA STATUTES.

DAVID MCMILLEN
STATE OF FLORIDA
LS # 6378
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR

OWB: BR
DATE: 09/04/2020
MAP SUBJECT: Conservation Easement
SCALE: N/A

TYPE OF SURVEY:
SKETCH AND DESCRIPTION

AIA
SURVEYING, INC.
Professional Surveyor
Phone: 386.216.5730
555 W Granada Blvd., Suite D7, Ormond Beach, Florida 32174 LB 8205
Residential Commercial Construction

**FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
THE RESERVE AT VICTORIA**

THIS FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE RESERVE AT VICTORIA ("First Amendment") is made and entered into this 2ND day of NOVEMBER, 2022, by AJP I OF VOLUSIA, LLC, a Florida limited liability company, whose address is 794 Sanders Road, Suite 1, Port Orange, FL 32127 ("Declarant" or "Developer").

WITNESSETH

WHEREAS, the Developer caused to be recorded that certain Declaration of Covenants, Conditions, Restrictions and Easements for The Reserve at Victoria, which was recorded on March 17, 2021, in Official Records Book 8196, Page 2319, of the Public Records of Volusia County, Florida (the "Declaration"); and

WHEREAS, the Developer desires to amend and modify the Declaration to include the Bylaws for The Reserve at Victoria Homeowners' Association, Inc., a Florida not-for-profit, as defined in the Declaration, as an exhibit to the Declaration; and

WHEREAS, the Developer further desires to amend and modify the Declaration to clarify: (i) the ongoing property maintenance obligations of Lot Owners within The Reserve at Victoria and the Association responsibilities related to same; (ii) the right of the Declarant to assign any and all Declarant rights; and (iii) the scope of the assessment exemption for Developer affiliated builder entities; and

WHEREAS, the Developer deems this First Amendment consistent with the provisions of Section 10.06 of the Declaration, and the Developer further finds that the changes proposed herein are minor and will not substantially change the character, nature, or general scheme of development of the subdivision; and

NOW, THEREFORE, in consideration of the premises and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. The foregoing recitations are true and correct.
2. The Declaration is hereby amended in part to add the Bylaws for The Reserve at Victoria Homeowners' Association, Inc., a Florida not-for-profit, attached to this First Amendment, as Exhibit "D" to the Declaration.
3. Section 1.08, Article I of the Declaration is hereby amended in part as follows, with additions in underline:

1.08 "Bylaws" shall mean and refer to the Bylaws of the Association, attached hereto as Exhibit "D", as they may exist and/or be amended from time to time.
4. Section 1.14, Article I of the Declaration is hereby amended in part as follows, with additions in underline:

1.14 **“Developer” or “Declarant”** shall mean and refer to AJP I of Volusia, LLC, a Florida limited liability company, and its successors and assigns, as defined in Section 13.12.

5. Article XIII of the Declaration is hereby amended in part as follows, with additions in underline:

Section 13.12 Declarant Rights and Obligations. The Declarant, in its sole and absolute discretion, may at any time assign any portion or all its rights and privileges under this Declaration, with or without Declarant’s obligations under this Declaration.

6. Section 6.09, Article VI is hereby amended in part as follows, with additions in underline:

6.09 Exempt Property. The following properties subject to this Declaration shall be exempted from the Common Expenses, Base Assessments, Special Assessment, Individual Assessments, Administrative Assessments, any other Assessment charges, and liens created herein: (a) all properties dedicated to and accepted by a governmental body, agency or authority; and (b) all Common Property. All Lots, Property or Additional Property owned by the Developer (including, without limitation, any Lot used or leased by the Developer, and any Lots owned by a Developer affiliated builder entity constructing a Residence thereon for sale to third parties, or used by the Developer or a Developer affiliated builder entity as a model home, construction facility, or other use) shall be exempt from payment of Assessments for so long as Developer funds any deficit in the annual budget. Developer shall fund such expenses only as they are actually incurred by the Association during the period that Developer is funding the deficit. A deficit shall have occurred if in any fiscal year of the Association the expenses of the Association exceed the Assessments plus other income receivable by the Association. Developer's obligation to fund any deficits shall terminate at such time as Developer, in its sole discretion, elects to pay the Assessment for each Lot owned by it which has been subjected to the Declaration, or after Turnover, whichever shall first occur. Developer may, but is not obligated to, assign this exemption right to any entity it may determine, including without limitation any builder owning Lots solely for the purpose of constructing Residences intended to be sold to ultimate purchasers. Any such assignment of Developer's exemption shall have no effect on Developer's exemption hereunder.

7. Section 9.06, Article IX of the Declaration is hereby amended in whole as follows:

9.06 Property Maintenance. Unless otherwise specified, the Association shall maintain each Owner’s Lot, including the vegetation, landscaping, and all improvements there in good repair and in a neat and attractive condition.

(a) Any fences on a Lot shall be submitted for ARC approval prior to installation and all fences shall include an access gate with a minimum width of fifty-three (53) inches to allow for maintenance of the Lot by the Association.

- (b) The Lot Owner shall be responsible for the pickup and disposal of all pet and animal waste on their Lot, which shall be done prior to regularly scheduled maintenance of the Association.
- (c) The planting of additional vegetation or landscaping by an Owner is strictly prohibited without approval by the ARC. The Association shall not be responsible for any vegetation or landscaping installed on a Lot by the Owner.
- (d) The minimum, but not exclusive, standard for maintenance by Lot Owners of improvements on a Lot shall be consistent with the approved plans and specifications for those improvements and with the general appearance of the other Lots within the development. The maintenance obligations of each Owner as to structures shall include, without limitation, maintenance of all exterior surfaces and roofs, facias and soffits, awnings, trellises, decorative facades, screens, windows, and doors. Lot Owners shall clean, repair and re-stain, as appropriate, the exterior portion of structures, including, but not limited to, exterior surfaces of garage doors, as often as necessary and with the same colors as initially approved or with a different color with prior approval of the ARC.

The Association reserves the right to terminate all maintenance services on a Lot in the event the Owner fails to follow the requirements of this Section. In the event, an Owner of any Lot fails to maintain their Lot, or the improvements thereon as specified in this Section, the Owner shall be notified and given thirty (30) days to correct or abate the noncompliance. If the Owner fails to timely correct or abate same with the time period provided, then the Association shall have the right, but not the obligation, to enter upon the Lot for the purpose of correcting such noncompliance, regardless of the performance required by the Association to correct same. All costs incurred by the Association to correct a noncompliance specified in this Section shall be the sole responsibility of the Owner of such Lot and levied as an Individual Assessment against such Lot as specified in Article VI.

8. Except as hereinabove amended and modified, all the terms in the Declaration, as amended by the First Amendment, are hereby ratified, confirmed, and approved.

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IN WITNESS WHEREOF, the undersigned has caused this First Amendment to be executed in its name, this 2ND day of NOVEMBER, 2022.

Signed, sealed and delivered
in the presence of:

DECLARANT/DEVELOPER
AJP I OF VOLUSIA, LLC, a Florida
limited liability company

[Signature]

[Signature]
James W. Paytas, III,

Printed Name: Lisa White

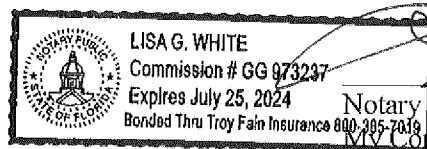
Its: Authorized Member

[Signature]

Printed Name: Deborah L. Wolfe

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by ☐ online notarization or ☒ physical presence this 2ND day of NOVEMBER, 2022, by James W. Paytas, III, as the Authorized Member of AJP I of Volusia, LLC, a Florida limited liability company, ☒ who is personally known to me or ☐ who has produced the following as identification: _____ and who did not take an oath.



[Signature]
Notary Public
Commission Expires:

JOINDER AND CONSENT

The undersigned, The Reserve at Victoria Homeowners' Association, Inc., a Florida corporation not-for-profit, hereby consents to the foregoing First Amendment to the Declaration and accepts the rights conferred upon it and the responsibilities imposed upon it; however, that the rights and obligations shall inure to and be binding upon The Reserve at Victoria Homeowners' Association, Inc. only upon the recording of the foregoing amendment in the Public Records of Volusia County, Florida.

The Reserve at Victoria Homeowners' Association, Inc.,
a Florida not-for-profit corporation.

By: _____

James W. Paytas, Jr., President

Lisa White
Printed Name

TINA JAMESAL
Printed Name

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by ☐ online notarization or ☐ physical presence this 7th day of NOVEMBER, 2022, by James W. Paytas, Jr., as President of The Reserve at Victoria Homeowners' Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation, ☒ who is personally known to me or ☐ who has produced the following as identification: _____ and who did not take an oath.

Notary Public
My Commission Expires: _____



Exhibit "D"
Bylaws of the Association

**BYLAWS
OF
THE RESERVE AT VICTORIA HOMEOWNERS' ASSOCIATION, INC.**

1. **IDENTITY.** These are the Bylaws of the Reserve at Victoria Homeowner's Association (the "Association"), a not-for-profit corporation incorporated under the laws of the State of Florida, organized for the purpose of administering, managing and/or operating the Reserve at Victoria subdivision, a residential community located in Volusia County, Florida.
 - 1.1 **Mailing Address.** The mailing address of the Association shall be designated by the Board of Directors from time to time.
2. **DEFINITIONS.** The terms used herein shall have the same definitions as stated in that certain Declaration of Covenants, Conditions, Restrictions and Easements for Reserve at Victoria, as amended and/or supplemented from time to time (the "Declaration"), unless the context requires otherwise.
3. **MEMBERS.** The Members of the Association shall be the record owners of the fee title to the Lots.
 - 3.1 **Qualifications.** Membership shall become effective upon the recording in the Public Records of a deed or other instrument evidencing the Member's legal title to the Lot.
 - 3.2 **Voting Rights; Voting Interests.** A Member of the Association is entitled to one (1) vote for each Lot owned by that Member. The total number of votes ("voting interests") is equal to the total number of Lots. The vote of a Lot is not divisible. The right of a Member to vote may be suspended by the Association for nonpayment of any monetary obligation to the Association. The following persons shall be authorized to cast a vote on behalf of the Lot depending on the specified ownership interests:
 - 3.2.1 If a Lot is owned by one natural person, that person has the right to cast a vote on behalf of the Lot.
 - 3.2.2 If a Lot is owned jointly by two or more persons, any of the record owners may cast a vote on behalf of the Lot.
 - 3.2.3 If a Lot is subject to a life estate, any of the life tenants may cast a vote on behalf of the Lot, or the holder(s) of the remainder interest may cast the vote on behalf of the Lot.
 - 3.2.4 If the Owner of a Lot is a corporation, any officer of the corporation may cast the vote on behalf of the Lot.
 - 3.2.5 If a Lot is owned by a partnership, any general partner may cast the vote on behalf of the Lot.
 - 3.2.6 If a limited liability company owns a Lot, any authorized agent may cast the vote on behalf of the Lot.
 - 3.2.7 If a Lot is owned by a trustee(s), the vote for the Lot may be cast by any trustee of the trust, or by any grantor or beneficiary of the trust provided the grantor or

beneficiary occupies the Lot and provides proof to the Association that he or she is the beneficiary.

In a situation where there are two or more persons authorized to cast a vote on behalf of a Lot, it shall be presumed that the person casting the vote has the consent of all such persons. In the event the persons who are authorized to vote on behalf of a Lot do not agree among themselves how their one vote shall be cast, which disagreement must be provided to the Association in writing and the vote for that Lot shall not be counted.

3.3 Approval or Disapproval of Matters. Whenever the decision of a Lot Owner is required upon any matter, whether or not the subject of an Association meeting, such decision may be expressed by any person authorized to cast the vote of such Lot at an Association meeting as stated in Section 3.2 above, unless the joinder of all owners is specifically required.

3.4 Termination of Membership. The termination of membership in the Association does not relieve or release any former Member from liability and/or obligation incurred under or in any way connected with the Association and/or subdivision during the period of membership, nor does it impair any rights or remedies which the Association may have against any former Member arising out of or in any way connected with such membership and the covenants and obligations incident thereto.

4. MEMBER'S MEETINGS; VOTING.

4.1 Annual Meeting. The annual Members' meeting shall be held each year on a date, at a place and at a time determined by the Board of Directors from time to time; provided, however, that there shall be an annual meeting every calendar year and, to the extent possible, no later than fifteen (15) months after the last preceding annual meeting. However, the failure to hold an annual meeting within the required time frame shall not serve to invalidate actions of the Association, or the Board. The purpose of the meeting shall be to elect directors and to transact any other business authorized to be transacted by the Members, and may include the adoption of the budget by the Association.

4.2 Special Meetings. Special Members' meetings may be called by the President, Vice President, or by a majority of the Board of Directors of the Association, and must be called by the Association upon receipt of a written request from fifty percent (50%) of the voting interests. The business conducted at a special meeting shall be limited to that stated in the notice of that special meeting.

4.3 Notice of Meeting; Waiver of Notice. Notice of a meeting of Members shall state the time, place, date, and the purpose(s) for which the meeting is called. The notice shall include an agenda. The notice of any Members' meeting shall be provided to every Member by one of the following methods: (1) mailed postpaid and correctly addressed the Member's address shown in the current records of the Association; or (2) be hand delivered to the Member who must in that event sign a receipt; or (3) be electronically transmitted to a correct facsimile number or electronic mail address at which the Member has consented in writing to receive notice. Each Member bears the responsibility of notifying the Association of any change of address, facsimile number and/or electronic mail address. Consent by a Member to receive notice by electronic transmission shall be revocable by the Member by written notice to the Association. The mailing, delivery and/or electronic transmission of the notice shall be effected not less than fourteen (14) days prior to the date

of the meeting. Proof of notice shall be given by affidavit of the person giving and/or sending notice.

Notice of specific meetings may be waived before or after the meeting and the attendance of any Member shall constitute such Member's waiver of notice of such meeting, except when attendance is for the sole and express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

- 4.4 Quorum.** A quorum at Members' meetings shall be obtained by the presence, either in person or by proxy, of persons entitled to cast ten percent (10%) of the Association's voting interests.
- 4.5 Majority Vote.** The acts approved by a majority of the voting interests present and voting, in person or by proxy, at a meeting of the Association's membership at which quorum shall have been attained shall be binding upon all Lot Owners for all purposes, except where otherwise provided by law, the Declaration, the Articles of Incorporation, and/or these Bylaws.
- 4.6 Voting/Proxies.** Votes at meetings of the Association's membership may be cast in person or by proxy. Members and proxyholders may participate in Association meetings via telephone conference, if permitted by the Association. Absent a resolution of the Board to the contrary, the President of the Association shall have the authority to determine whether Members or holders of proxies should be allowed to participate in any particular meeting of the Membership by telephonic conference. In order for a proxyholder to participate telephonically in an Association meeting, a copy of the proxy must be provided to the Association, at the meeting location, prior to the start of the meeting. A proxy may be made by any person entitled to vote but shall only be valid for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person executing it. A proxy must be filed in writing, signed by the person authorized to cast the vote for the Lot and filed with the Secretary before the appointed time of the meeting, or before the time to which the meeting is adjourned. Holders of the proxies must be in person eligible to cast a vote on behalf of a Lot as set forth in Section 3.2 of these Bylaws.

An executed facsimile appearing to have been transmitted by the proxy giver, or a photographic, photostatic, facsimile, electronic or equivalent reproduction of a proxy, is a sufficient proxy. An owner may retroactively cure any alleged defect in a proxy by signing a statement ratifying that owner's intent to cast a proxy vote and ratifying the vote cast by his or her proxy.

- 4.7 Adjourning Meetings.** If any proposed meeting cannot be organized because a quorum has not be attained, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting.
- 4.8 Order of Business.** If a quorum has been attained, the order of business at annual Members' meetings, and, if applicable, at other Members' meetings, shall be

- (a) Call to order by President

- (b) At the discretion of the President, appointment by the President of a chairperson of the meeting (who need not be a Member or director)
- (c) Calling of the roll, certifying of proxies, and determination of a quorum, or in lieu of thereof, certification and acceptance of the preregistration and registration procedures establishing the owners represented in person, by proxy
- (d) Proof of notice of the meeting or waiver of notice
- (e) Reading and disposal of any unapproved minutes
- (f) Reports of officers
- (g) Reports of committees
- (h) Appointment of inspectors of election
- (i) Election of directors
- (j) Unfinished business
- (k) New business
- (l) Adjournment

Such order may be waived in whole or in part by direction of the President or chairperson of the meeting in their sole and absolute discretion.

- 4.9 Minutes of Meeting.** The minutes of all meetings of the Association's membership shall be kept available for inspection by Lot Owners or their authorized representatives in accordance with applicable Florida law and/or any reasonable rules regarding inspection that may be adopted by the Association's Board of Directors from time to time. The Association shall retain these minutes for a period of not less than seven (7) years in the Association's official records. Minutes for each meeting must be reduced to written form within ninety (90) days after the meeting date.

- 4.10 Action Without a Meeting.** Anything to the contrary herein notwithstanding, to the extent lawful, any action required or permitted to be taken at any annual or special meeting of Members may be taken without a meeting, provided the Association mails, emails, and/or delivers a letter or similar communication to each owner that explains the proposed action. The communication shall include a form of consent to permit each owner to consent to the proposed action, and instructions on consent procedures. The Association may proceed with the proposed action without further notice and without a vote at a membership meeting provided consents in writing, setting forth the action so taken, shall be signed by the Members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of the Members at which all Members entitled to vote thereon were present and voted. If the requisite number of written consents are received by the Secretary within sixty (60) days after the earliest date which appears on any of the consent forms received, the proposed action so authorized shall be of full force and effect as if the action had been approved by vote of the Members at a meeting of the Members held on the sixtieth (60th) day. Within thirty (30) days after obtaining such authorization by written consent, notice must be given to Members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action. Members may also consent in writing to actions taken at a meeting by providing a written statement to that effect, and their vote shall be fully counted as though they had attended the meeting.

5. DIRECTORS.

- 5.1 Number, Tenure and Qualifications.** The number of directors which shall constitute the whole Board of Directors shall be three (3); provided, however, that number can be either increased or decreased by the approval of no less than a majority of the Association's voting interest at a meeting of the Association's membership at which a quorum has been attained, either in person or by proxy. Notwithstanding anything to the contrary in these Bylaws, the number of Directors shall never be less than three (3). All directors shall serve a term of one (1) year or until their successor is duly elected. A Director's term ends at the annual election at which his successor is to be duly elected, or at such other time as may be provided by law. Directors shall be elected by the Members as described in Section 5.3 of these Bylaws, or in the case of a vacancy, as provided in Section 5.4 of these Bylaws. The votes shall be broken by agreement among the candidates who are tied, or if there is no agreement, by run-off election.
- 5.2 Qualifications.** Every director must be at least eighteen (18) years of age, must be a member of the Association, and a person that is eligible to cast a vote on behalf of a Lot as set forth in Section 3.2 of these Bylaws.
- 5.3 Election of Directors.** The following procedures shall apply to the election of directors:
- 5.3.1** Any eligible person desiring to be a candidate may submit a self-nomination, in writing, not less than forty (40) days prior to the scheduled election and shall automatically be entitled to be listed on the ballot.
 - 5.3.2** The ballot prepared for the annual meeting shall list all director candidates in alphabetical order.
 - 5.3.3** The election shall be by plurality vote (the nominees receiving the highest number of votes are elected). The votes shall be broken by agreement among the candidates who are tied, or if there is no agreement, by run-off election to be held no less than thirty (30) days from the date of the original election.
 - 5.3.4** No election shall be necessary if the number of candidates is less than or equal to the number of vacancies.
- 5.4 Vacancies on the Board.** If the office of any director becomes vacant for any reason, a successor or successors to fill the remaining unexpired term or terms shall be appointed or elected as follows:
- 5.4.1** If a vacancy is caused by the death, disqualification or resignation of a director, a majority of the remaining directors, even though less than a quorum, shall appoint a successor, who shall hold office until the next meeting at which directors are elected.
 - 5.4.2** If a vacancy occurs as a result of a recall and less than a majority of the directors are removed, the vacancy may be filled by appointment by a majority of the remaining directors, though less than a quorum. If vacancies occur as a result of a recall in which a majority or more of the directors are removed, the vacancies shall be filled by the Members in the agreements used to recall the Board Members, or by a vote at the recall meeting, as applicable.

For purposes of the foregoing provisions, in order to establish a quorum at the Board of Directors' meeting held to appoint a replacement Member to the Board, it shall be necessary only for majority of the remaining directors to attend the meeting, either in person or by telephone conference participation.

- 5.5 **Removal of Directors.** Any or all directors, may be removed with or without cause by a majority vote of the entire voting interests, either by a written petition or at any meeting called for that purpose. The question shall be determined separately as to each director sought to be removed. All recall proceeding shall be in accordance with the provisions of Section 720.303 (10), Florida Statutes, as it may be amended and/or renumbered from time to time.
- 5.6 **Organizational Meeting.** The organizational meeting of newly-elected directors shall be held no less than ten (10) days after their election at such place and time as shall be fixed by the directors. The organizational meeting of newly-elected directors may take place immediately following adjournment of the meeting of the Association's membership where the election took place. Notice of the organizational meeting shall be posted at the designated location in the subdivision at least forty-eight (48) continuous hours in advance of the meeting.
- 5.7 **Regular Meetings.** Regular meetings of the Board of Directors shall be held at such times as shall be determined by a majority of the directors. Except for meetings with the Association's attorney which are subject to the attorney-client privilege, as provided by applicable law, meetings of the Board of Directors shall be open to all Members of the Association. Notice of such meetings shall be provided to the members at least forty-eight (48) hours in advance, except in the event of an emergency.
- 5.8 **Special Meetings.** Special meetings of the directors may be called by the President, or Vice President, and must be called by the President or Secretary at the written request of two (2) directors. Special meetings of the Board of Directors shall be noticed and conducted in the same manner as provided herein for regular meetings. Members of the Association may petition for an item of business to be discussed at a board meeting to the extent and so long as permitted by Section 720.303(2)(d), Florida Statutes, as it may be amended and/or renumbered from time to time.
- 5.9 **Notice to Board Members/Waiver of Notice.** Notice of Board meetings shall be given to Board Members in person, by telephone, by electronic mail, or by one of the methods set forth in Section 4.2 of these Bylaws, which notice shall state the time, place and purpose of the meeting, and shall be transmitted not less than forty-eight (48) hours prior to the meeting. Any director may waive notice of the meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said director of notice. Attendance by any director at a meeting shall automatically constitute a waiver of notice of such meeting, except when attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.
- 5.10 **Quorum.** Except as provided in Section 5.4 of these Bylaws, a quorum at Board of Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those directors present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of directors is specifically required by the Declaration, the Articles of Incorporation and/or these Bylaws. Directors may not vote by proxy. Directors may vote

by secret ballot only for the election of officers, otherwise, votes by secret ballot are prohibited. At all other times, a vote or abstention for each director present shall be recorded in the minutes of the Board meeting.

- 5.11 Adjourning Meetings.** If, at any proposed meeting of the Board of Directors there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required pursuant to these Bylaws. At any newly scheduled meeting, any business that might have been transacted at the Board meeting as originally called may be transacted without further notice.
- 5.12 Joinder in the Meeting by Approval of Minutes.** A Member of the Board may submit in writing his or her agreement or disagreement with any action taken at a meeting that the Member did not attend, but such action may not be used as a vote for or against the action taken and may not be used for the purpose of creating a quorum.
- 5.13 Presiding Officer.** The presiding officer at the Board of Directors' meetings shall be the President (who may, however, designate any other person to preside). In the absence of the presiding officer, the directors present may designate any person to preside.
- 5.14 Order of Business.** If a quorum has been attained, the order of business at the Board of Directors' meetings shall be:
- (a) Call to Order- Certifying Quorum
 - (b) Proof of Notice of Board Meeting
 - (c) Reading and disposal of any unapproved minutes
 - (d) Report of officers and committees
 - (e) Unfinished business
 - (f) New business
 - (g) Adjournment

Such order may be waived in whole or in part by direction of the President, or the presiding officer.

- 5.15 Minutes of Meetings.** The minutes of all meeting of the Board of Directors shall be kept in a book available for inspection by the Association's membership or their authorized representatives, in accordance with applicable Florida law and/or any reasonable rules regarding inspection that may be adopted by the Association's Board of Directors from time to time. The Association shall retain these minutes for a period of not less than seven (7) years as part of the Association's official records.
- 5.16 Committees.** The Board of Directors may by resolution create committees and may invest in such committees such powers and responsibilities as the Board shall deem advisable. The Board may authorize the President to appoint committee Members and designate the chairpersons of each committee. Any committee authorized to take final action on behalf of the Board regarding (1) the approval or disapproval of architectural decisions; or (2) the authorization of expenditures of Association funds, shall conduct their affairs in the same manner as provided in these Bylaws for Board of Directors meetings. All other committees may meet and conduct their affairs in private without prior notice and/or participation from the Association's members. Notwithstanding any other law or documentary provision, the requirement that committee meetings be open to the Association's Members is applicable

to meetings between a committee and the Association's attorney, which is subject to the attorney-client privilege, as provided applicable law.

6. **POWERS AND DUTIES.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the subdivision, and the Association may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles of Incorporation and/or these Bylaws may be not be delegated to the Board of Directors by the Association's Members. Such powers and duties of the Board of Directors shall include the following:

- (a) Operation and maintaining the common areas, including surface water and drainage facilities and systems.
- (b) Determining the common expenses required for the operation, management, maintenance, repair and/or replacement of the subdivision and/or the Association.
- (c) Collecting the assessments for common expenses from Lot Owners.
- (d) Employing and dismissing the personnel necessary for the maintenance and operation of the subdivision and/or the Association.
- (e) Adopting and amending rules and regulations concerning the operation and use of the common areas, any portion of the subdivision, the Lots and/or the Association, and to establish criteria for architectural approval.
- (f) Maintaining accounts at depositories on behalf of the Association and designating the signatories.
- (g) Purchasing lots at foreclosure or other judicial sales, in the name of the Association, or its designee.
- (h) Enforcing obligations of the Lot Owners.
- (i) Levying fines.
- (j) Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep, repair, replacement and/or maintenance of any portion of the subdivision. The Association may pledge personal property (including reserve funds and assessment rights) as security for a loan but may not mortgage the common areas unless approved by at least two-thirds (2/3rds) of the entire voting interests of the Association.
- (k) Contracting for the maintenance, operation, management and/or repair of the subdivision. All contracts for the purchase, lease or renting of materials or equipment, all contracts for services, and any contract that is not to be fully performed within one year, shall be in writing.
- (l) Exercising: (i) all powers specifically set forth in the Declaration, the Articles of Incorporation and/or these Bylaws; (ii) all powers incidental thereto; (iii) all other powers, privileges and/or rights granted by statute and/or other law to a Florida not for profit corporation.

- (m) Convey a portion of the common areas and/or personal property of the Association to a condemning authority or a utility for the purpose of providing utility easements, right-of-way expansion, or other public utility purposes, whether negotiated or as a result of eminent domain proceedings.
- (n) Acquiring and/or maintaining insurance policies that the Board of Directors determines in its business judgment to be in the best interest of the Association, including without limitation, casualty insurance coverage, general commercial liability coverage, directors and officers coverage, flood insurance and/or automobile coverage.
- (o) The Association may suspend the voting rights of a Member for the nonpayment of any monetary obligation due to the Association that is delinquent in excess of ninety (90) days as provided in applicable Florida law. Those Members whose voting rights are suspended pursuant to the terms of the Association's governing documents and/or Florida law shall be subtracted from the required number of votes in any calculation for purposes of determining whether a quorum is present during the period of suspension and such voting interests shall likewise be subtracted from the required number of votes when calculating any required vote as set forth in the Association's governing documents and/or applicable Florida law.

7. EMERGENCY BOARD POWERS. In the event of any "emergency" as defined below, the Board of Directors may exercise the emergency powers described in this Article 7, and any other emergency powers authorized by Section 617.0207, Florida Statutes and Section 617.0303, Florida Statutes, as each may be amended and/or renumbered from time to time.

- 7.1 The Board may name as assistant officers persons who are not directors, which assistant officers shall have the same authority as the executive officers to whom they are assistant during the period of the emergency, to accommodate the incapacity of any officer of the Association.
- 7.2 The Board may relocate the principal office or designate alternative principal offices or authorize the officers to do so.
- 7.3 During any emergency the Board may hold meetings with notice given only to those directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including publication or radio. The director or directors in attendance at such a meeting shall constitute a quorum.
- 7.4 Corporate action taken in good faith during an emergency under this Article 7 to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttable presumption of being reasonable and necessary.
- 7.5 The Board may use reserve funds to meet Association needs.
- 7.6 Any officers, director, or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency Bylaws shall incur no liability for doing so, except in the case of willful misconduct.
- 7.7 These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

7.8 For purposes of this Article 7 only, an “emergency” exists only during a period of time that the home, or the immediate geographic area in which the home is located, is subjected to:

- 7.8.1 a state of emergency declared by local civil or law enforcement authorities;
- 7.8.2 a hurricane warning;
- 7.8.3 a partial or complete evacuation order;
- 7.8.4 federal or state “disaster area” status;
- 7.8.5 a catastrophic occurrence, whether natural or manmade, which seriously damages or threatens to seriously damage the physical existence of the subdivision, such as an earthquake, tidal wave, fire, hurricane, tornado, war, civil unrest, pandemic or act of terrorism; or
- 7.8.6 an unanticipated set of circumstances, which, if not acted upon with immediacy, is likely to cause imminent and significant financial harm to the Association, the Lot Owners, the subdivision and/or property of the Association.

7.9 **Additional Board Authority.** In addition to Board authority granted by law and the Association’s governing documents, the Board shall have the following power and authority to declare any portion of the common area unavailable for occupation by owners, tenants, or guests after a casualty, including during the rebuilding process. Such decision by the Board shall be made only if necessary to protect the health, safety, or welfare of the Association, owners, tenants, and/or guests.

8. OFFICERS.

- 8.1 **Officers.** The officers of the Association shall be a President, Vice-President, a Treasurer and a Secretary. All officers must be directors and must be members of the Association. All officers shall be elected by the Board of Directors and may be peremptorily removed from the office at any meeting by concurrence of a majority of the directors. A person may hold more than one (1) office, except that the President may not also be the Secretary or Treasurer. No person shall sign an instrument or perform an act in the capacity of more than one officer. The Board of Directors from time to time shall elect such other officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association.
- 8.2 **President.** The President shall be the chief executive officer of the Association and shall have all of the powers and duties that are usually vested in the office of the President of a Florida not for profit corporation.
- 8.3 **Vice-President.** The Vice-President shall exercise the powers and perform the duties of the President in the absence or disability of the President, and shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice-president of a Florida not for profit corporation, and as may be required by the directors or the President.

- 8.4 Secretary.** The Secretary shall keep the minutes of all proceedings of the directors and the Members, shall attend to the giving of all notices to the Members and directors and other notices required by law, shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed, and shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of a Florida not for profit corporation, and as may be required by the directors or the President.
- 8.5 Treasurer.** The Treasurer shall have custody of the all property of the Association, including funds, securities and evidences of indebtedness, shall keep books of account for the Association in accordance with good accounting practices which, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. The Treasurer shall submit a Treasurer's report to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of treasurer and as may be required by the directors or the President. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board of Directors.
- 8.6 Delegation.** The Board of Directors may delegate any or all of the functions of the Secretary or Treasurer to an agent and/or employee; provided, however, that to the extent required by a majority of the directors, the Secretary or Treasurer shall in such instance generally supervise the performance of the agent and/or employee in the performance of such functions.
- 9. COMPENSATION.** Neither directors nor officers shall receive compensation for their services as such; provided, however, the Board of Directors may hire a Director or officers as an employee of the Association, and may contract with a Director or officer for management or any other compensable service, in their reasonable business discretion. Any such employment and/or contract shall be subject to any applicable requirements of Florida law with respect to notice and disclosure to the Association's membership.
- 10. RESIGNATIONS.** Any director or officer may resign his or her position at any time by written resignation, including electronic transmission, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Lots owned by any director or officer shall constitute an automatic resignation of such director or officer without the need for written resignation.
- 11. FISCAL MATTERS.** The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following:
- 11.1 Budget.** The Board of Directors shall adopt a budget of common expenses for the subdivision and/or the Association. The assessment is payable in the manner established by the Board of Directors in its sole and absolute discretion, which may be annually, semi-annually, quarterly or monthly. The Board of Directors shall post notice of the budget meeting, along with a copy of the proposed budget, at least forty-eight (48) hours in advance of the meeting in accordance with Section 5.7 of these Bylaws, and after adoption of the budget, shall provide a copy of the budget to each Lot Owner or a written notice advising that a copy of the budget shall be provided upon request at no cost to the Member.

- 11.2 Reserves.** The Board may establish one or more reserve accounts in the operating budget for contingencies, operating expenses, repairs, capital improvements or special projects. These reserves may be used to offset cash flow shortages, provide financial stability, and avoid the need for special assessments on a frequent basis. The amounts proposed to be so reserved shall be included in the proposed annual budget. These funds may be spent for any purpose approved by the Board. To the extent required by Florida law, the establishment of any reserve account shall require the approval of a majority of the total voting interests of the Association at the annual meeting or at a special meeting of the Association's membership called for that purpose. To the extent required by Florida law, the reduction in funding of reserves and/or the waiver of reserve funding must be approved by a majority of the Association's voting interests who are present, either in person or by proxy, at a meeting of the Association's membership where a quorum has been attained. The Association shall have the authority to establish and/or maintain a pooled reserve account.
- 11.3 Special Assessments.** Special assessments may be approved by the Board of Directors. All special assessments shall be secured by a lien in the same manner as regular assessments per the Declaration.
- 11.4 Fidelity Bonds.** The President, Vice-President, Secretary and Treasurer, and all other persons who are authorized to sign checks, or have access to or control of Association funds, shall be bonded in such amounts as may be required by law or otherwise determined by the Board of Directors. The premium on such bonds shall be considered a common expense.
- 11.5 Financial Reports.** A complete financial report of actual receipts and expenditures of the Association shall be made annually which shall comply with the requirements of Section 720.303(7), Florida Statutes as it may be amended and/or renumbered from time to time. The level of financial reporting by the Association may be reduced in the manner set forth in Section 720.303(7), Florida Statutes, as it may be amended and/or renumbered from time to time.
- 11.6 Fiscal Year.** The fiscal year for the Association shall begin on the first day of January each calendar year. The Board of Directors may adopt a different fiscal year in accordance with law and the regulations of the Internal Revenue Service.
- 11.7 Depository.** The depository of the Association shall be such a bank, banks or other federally insured depository as shall be designated from time to time by the Board of Directors and in which the monies of the Association shall be deposited, preferably not to exceed the amount of federal insurance available provided for any account. Withdrawal of monies from those accounts shall be made only by checks signed by such person or persons authorized by the directors. All funds shall be maintained separately in the Association's name.
- 12. ROSTER OF LOT OWNERS.** Each lot Owner shall within thirty (30) days of taking title to his, her or its Lot, file with the Association a copy of the recorded deed or other recorded document showing his, her or its ownership. The Association shall maintain such information and may rely upon the accuracy of such information for all purposes until notified in writing of changes therein as provided above. Only Lot Owners of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting

other owners shall produce adequate evidence, as provided above, of their ownership interest and shall waive in writing notice of such meeting.

13. **PARLIAMENTARY RULES.** Robert's Rules of Order (latest edition) shall be used as a guide in the conduct of members' meetings, Board meetings, and committee meetings to ensure fairness, impartiality, and respect for minority views without unduly burdening majority rights and/or used in such a manner to frustrate and/or impede the meetings. Meetings shall also be conducted in accordance with these Bylaws and the procedures established by the Board from time to time, including the form of voting documents to be used. The ruling of the Chair of the meetings, unless he or she or the Board of Directors designates a third person as Parliamentarian, shall be binding unless contrary to law.

14. **INDEMNIFICATION.**

- 14.1 **Indemnity.** The Association shall indemnify any officer, director, and/or committee member who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he or she is and/or was a director, officer, and/or committee member of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding, unless: (i) a court of competent jurisdiction finally determines, after all appeals have been exhausted or not pursued by the proposed indemnitee, that he or she did not act in good faith or in a manner he reasonably believed to be in and/or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he or she had reasonable cause to believe his or her conduct was unlawful; or (ii) such court also determines specifically that indemnification should be denied. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believe to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. It is the intent of the membership of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to their officers, directors, and/or committee members as permitted by Florida law.
- 14.2 **Defense.** To the extent that a director, officer, and/or committee member of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 14.1 of these Bylaws, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him or her in connection therewith.
- 14.3 **Advances.** Expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the affected director, officer, and/or committee member to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized by this Article 14.
- 14.4 **Miscellaneous.** The indemnification provided by this Article 14 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under

any Bylaw, agreement, vote of members, or otherwise, and shall continue as to a person who has ceased to be a director, officer, or committee member and shall inure to the benefit of the heirs and personal representatives of such person.

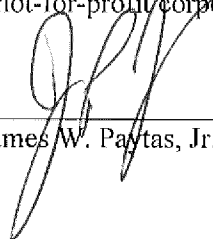
- 14.5 **Insurance.** The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, or agent of the Association, or a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him or her and/or incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability under the provisions of this Article 14.
- 14.6 **Amendment.** Anything to the contrary herein notwithstanding, the provisions of this Article 14 may not be amended without the approval in writing of all persons whose interest would be adversely affected by such amendment.
- 14.7 **Delegation.** To the extent permitted by law, the powers and duties of the directors and/or officers may be delegated for the purpose of management.
- 15. **AMENDMENTS.** These Bylaws may be amended in the following manner:
 - 15.1 **Notice.** Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting of the Board of Directors and/or a meeting of the Association's membership at which a proposed amendment is to be considered.
 - 15.2 **Resolution.** An amendment may be proposed either by the President, the Board of Directors, or by not less than twenty percent (20%) of the voting interests of the Association.
 - 15.3 **Approval.** Except as otherwise required by law, a proposed amendment to these Bylaws shall be adopted if it is approved by not less than a majority of the Association's voting interest who are present and voting, in person or by proxy, at any annual or special meeting at which a quorum has been attained, provided that notice of any proposed amendment has been given to the Members of the Association, and that the notice contains the text of the proposed amendment. Notwithstanding anything to the contrary in these Bylaws, amendments correcting errors, omissions and/or scrivener's errors may be executed by the officers of the Association, upon approval by the Board of Directors, without need for Association membership vote.
 - 15.4 **Execution and Recording.** A copy of each amendment to these Bylaws shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed with the formalities of a deed. The amendment shall be effective when the certificate and a copy of the amendment is recorded in the Public Records of Volusia County, Florida.
- 16. **RULES AND REGULATIONS.** The Board of Directors may, from time to time, adopt, amend or add to rules and regulations governing the use of any portion of the common areas, the use of any portion of the subdivision, the use of the Lots, the operation of the Association and/or the architectural standards for the subdivision.

17. **CONSTRUCTION.** Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.
18. **CAPTIONS.** The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the scope of these Bylaws or the intent of any provisions hereof.
19. **DOCUMENT CONFLICT.** Should any portion of these Bylaws be void and/or become unenforceable, the remaining provisions of these Bylaws shall remain in full force and effect. If any irreconcilable conflict should exist, or hereafter arise, the provisions of the Declaration shall take precedence over the Articles of Incorporation, which shall prevail over the provisions of these Bylaws, which shall prevail over the Association's Rules and Regulations.

The foregoing was adopted as the Bylaws of the Association at the first meeting of the Board on the 4th day of NOVEMBER, 2022.

The Reserve at Victoria Homeowners' Association, Inc.,
a Florida not-for-profit corporation.

By:



James W. Paytas, Jr., President

**SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
THE RESERVE AT VICTORIA**

THIS FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE RESERVE AT VICTORIA ("First Amendment") is made and entered into this 13 day of JANUARY, 2023, by AJPI OF VOLUSIA, LLC, a Florida limited liability company, whose address is 794 Sanders Road, Suite 1, Port Orange, FL 32127 ("Declarant" or "Developer").

WITNESSETH

WHEREAS, the Developer caused to be recorded that certain Declaration of Covenants, Conditions, Restrictions and Easements for The Reserve at Victoria, which was recorded on March 17, 2021, in Official Records Book 8196, Page 2319, of the Public Records of Volusia County, Florida (the "Declaration"); and

WHEREAS, the Developer amended and modified the Declaration by the First Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for The Reserve at Victoria, which was recorded on November 14, 2022, in Official Records Book 8333, Page 3850, of the Public Records of Volusia County, Florida (the "First Amendment"); and

WHEREAS, the Developer further desires to amend and modify the Declaration, as amended by the First Amendment, to adjust the capital contribution calculation in Section 6.11, Article VI; and

WHEREAS, the Developer deems this Second Amendment consistent with the provisions of Section 10.06 of the Declaration, and the Developer further finds that the changes proposed herein are minor and will not substantially change the character, nature, or general scheme of development of the subdivision; and

NOW, THEREFORE, in consideration of the premises and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. The foregoing recitations are true and correct.
2. Section 6.11, Article VI, of the Declaration is hereby amended in part as follows, with additions and deletions in underline and strikethrough, respectively:

...

- 6.11 **Capital Contribution.** In addition to all other obligations and assessments outlined in this Declaration, each Owner, by accepting a deed or other written instrument purporting to transfer title to a Lot, agrees pay a non-refundable contribution to the capital of the Association in an amount equal to one ~~two~~ (12) years of the then current year's Base Assessment ("Capital Contribution Transfer Fee"). The Capital Contribution Transfer Fee shall be shown on any estoppel certificate issued by or on behalf of the Association in connection with the conveyance of the Lot, shall be nonrefundable and in addition to, and not in lieu of, all other assessments levied on the Lot. Further, Capital Contribution Fee shall not be considered an advance payment of any portion of Assessments and may be used for any of the purposes and services set forth in this Declaration, including the

reduction of the Declarant's deficit funding. The Capital Contribution Transfer Fee shall be due and payable at closing of the sale of each Lot. Notwithstanding the foregoing, the Declarant and/or any of its affiliate builder entities shall not be subject to payment of the Capital Contribution Transfer Fee.

...

3. Except as hereinabove amended and modified by this Second Amendment, all the terms in the Declaration, as amended by the First Amendment and Second Amendment, are hereby ratified, confirmed, and approved.

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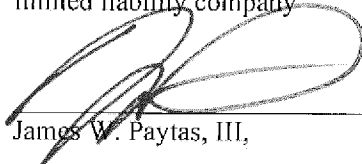
IN WITNESS WHEREOF, the undersigned has caused this First Amendment to be executed in its name, this 13 day of JANUARY, 2023.

Signed, sealed and delivered
in the presence of:

DECLARANT/DEVELOPER
AJP I OF VOLUSIA, LLC, a Florida
limited liability company

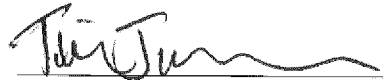


Printed Name: Lisa G. White



James W. Paytas, III,

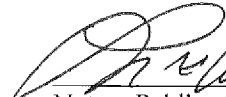
Its: Authorized Member

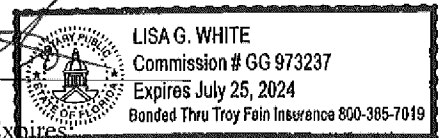


Printed Name: TINA JAMIESON

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by ☐ online notarization or ☒ physical presence this 13 day of JANUARY, 2023, by James W. Paytas, III, as the Authorized Member of AJP I of Volusia, LLC, a Florida limited liability company, ☒ who is personally known to me or ☐ who has produced the following as identification: _____ and who did not take an oath.

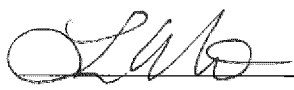

Notary Public
My Commission Expires _____



JOINDER AND CONSENT

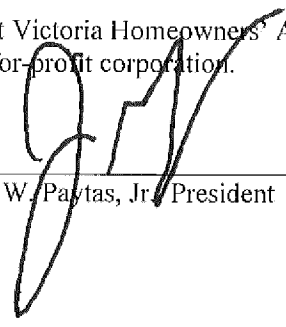
The undersigned, The Reserve at Victoria Homeowners' Association, Inc., a Florida corporation not-for-profit, hereby consents to the foregoing First Amendment to the Declaration and accepts the rights conferred upon it and the responsibilities imposed upon it; however, that the rights and obligations shall inure to and be binding upon The Reserve at Victoria Homeowners' Association, Inc. only upon the recording of the foregoing amendment in the Public Records of Volusia County, Florida.

The Reserve at Victoria Homeowners' Association, Inc.,
a Florida not-for-profit corporation.



Lisa White
Printed Name

By:



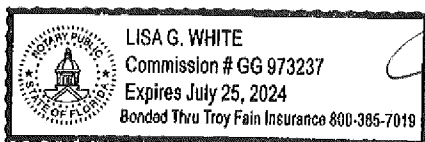
James W. Paytas, Jr. President



TINA JAMIESON
Printed Name

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by ☐ online notarization or ☒ physical presence this 13 day of JANUARY, 2023, by James W. Paytas, Jr., as President of The Reserve at Victoria Homeowners' Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation, ☒ who is personally known to me or ☐ who has produced the following as identification: _____ and who did not take an oath.





Notary Public
My Commission Expires:

RESERVE AT VICTORIA-DESIGN GUIDELINES

(Para 7.06 of Declaration)

Last updated **1.15.22**

CONSTRUCTION

Exterior walls must be of stucco, authentic brick, brick-veneer, cultured-stone, or other stone, lap (horizontal) siding must be painted Hardi (or similar cementitious product) but must be presented and approved by the ARC, with no vertical siding, of any kind.

Fascia to be white aluminum or painted Hardi (or similar cementitious product) 6in wide minimum and white in color.

Soffit must be minimum 12" ventilated vinyl; or painted white Hardi (or similar cementitious product), in the event of a sealed attic system

Roofing must be of an Estate Gray color (or equivalent dark-gray), 25-year or better dimensional asphalt shingle. Manufacturers may vary based on availability so specific color must be presented and approved by the ARC.

Window frames, fixed glass, etc must be white in color to exterior.

Exterior wall color, trim, and entry and garage door color will be selected by each customer from a catalogue of pre-approved palettes. No two of the same houses in color or elevation shall be repeated next door to another or be directly across the street of the same color combination. Any homeowner that desires to change any of the colors after the fact, must submit new color selections to the ARC prior to re-painting.

Gutters and downspouts must be white, and must be directed to the street or to a collection-areas and not never to side yard swales.

Pool Construction and enclosure design require ARC approval, with such approval request to include copies of permits accepted by the City.

Pool over-flows must be directed to the street or to a collection-areas and not never to side yard swales.

Pool enclosures shall be bronze aluminum "screen caging", without any solid material, no metal or aluminum roofs, but with mansard style-screened top shape.

Pool setbacks. Pool deck and screen enclosure may be no closer than 5' from the rear of the property line with all other city side-yard setback requirements met

No above-ground LP gas tanks shall be allowed, with the location of any in-ground tanks subject to ARC approval.

Hurricane shutters may not be side to side accordion-type, must be removed and stored when not in use. Installation of vertical retractable shutters require ARC approval, and covers must be painted same color as the walls.

LANDSCAPING

All lawns must be irrigated Floritam sod, subject to an approved irrigation plan approved by the ARC, and maintained by the Association.

New Install Budget. Each the construction of each home, a minimum budget of \$3,000 shall cover the installation of lawn, irrigation, shrubs ornamentals and ground cover/mulch(not incl sod or hardwood trees required by PD agreement). The landscape plan shall be approved by the ARC.

Trees. Each lot must have four (4) shade trees and one (1) street tree, as required per city ordinance and approved development plans. Species must be confirmed and are subject to change. This requirement is regulated and enforced by the Association

Maintenance. Lawns and landscaping will be maintained by the association and included in HOA dues. This includes shrubbery, sod, irrigation and street trees. Annual flowers may be installed and maintained at the homeowner's discretion and cost.

View restriction. No landscaping will be installed or maintained to block another owner's view across a lake or vista

Lawn Decoration. No pots, sculptures, yard ornaments, etc. will be allowed.

FENCING-all installs require pre-approval by ARC for location and materials.

Under no circumstance may a fence be installed in a way that interferes with the drainage design of the community, the lot, or its surrounding lots.

Fence materials must be either white vinyl or black/bronze slotted aluminum, as outlined below.

Location. Fences must be installed just inside, and not on, the property line, and must only be installed in the rear yard of the home and up to, at most, 25% along the side of the home when measuring from the rear towards the front.(Side yard provision may be approved as variance by ARC at their discretion to line up with neighbor)

Black/bronze open picket aluminum fencing must be utilized where the rear yard backs up to HOA open space, parks, lakes and dry retention, etc, and must not exceed 4' in height.

Solid white vinyl fencing can be utilized where rear yards back up to conservation areas and back to back lots where privacy is desired, and can be 6' in height.

Side facing Lots. Where a lot has a side yard to a street, the fence must not encroach past the building towards the street under any circumstance.

SIDEWALKS AND DRIVEWAYS

All driveways, entry walks, and front porches must be maintained in the preselected paver type, color, and pattern.

Sidewalks will be concrete according to city standards, as well as driveway apron from the sidewalk to the street.