

Prepared by:

HAND ARENDALL HARRISON SALE LLC
c/o Leslie D. Sheekley, Esq.
35008 Emerald Coast Parkway, Suite 500
Destin, Florida 32541

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
SOLUNA**

This Declaration of Covenants, Conditions and Restrictions of Soluna is hereby made by **D.R. Horton, Inc., a Delaware corporation**, whose mailing address is 10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Myers, Florida 33966.

WITNESSETH:

Declarant is the owner in fee simple of the property described in **Exhibit "A"** attached hereto and made a part hereof (the "**Property**"); and

Declarant intends, but shall not be required, to develop the Property as a residential community and to construct single family homes on the Property, subject to the covenants, conditions, restrictions, reservations, easements, liens and charges hereinafter set forth; and

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with subject to the protective covenants, conditions, restrictions, reservations, easements, liens and charges as hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability and plan of development for the same. Said covenants, conditions, restrictions, reservations, easements, liens and charges shall run with the Property and shall be binding upon all parties having and/or acquiring any right, title or interest in said property or any portion thereof.

ARTICLE I
DEFINITIONS

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

Section 1. "**Access Control System**" shall mean any system intended to control or monitor access to the Property or any portion thereof.

Section 2. "**Articles**" mean and refer to the Articles of Incorporation of Soluna Homeowners' Association, Inc., a not-for-profit Florida corporation, attached hereto as **Exhibit "B"**, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms thereof.

Section 3. "Association" means Soluna Homeowners' Association, Inc., a not-for-profit Florida corporation, its successors and assigns.

Section 4. "Board of Directors" or "Board" means the Board of Directors of the Association, as set forth in the Bylaws (as defined below).

Section 5. "Builder" means any person or entity other than the Declarant who purchases a Lot for the purpose of constructing a Home on the Lot for resale, (ii) is duly licensed, either itself or through an affiliated entity, to perform construction services, and (iii) is approved by the Declarant in writing as a Builder. The term "Builders" shall collectively refer to all persons or entities meeting the definition of "Builder" as provided herein.

Section 6. "Bylaws" mean the Bylaws of Soluna Homeowners' Association, Inc., attached hereto as Exhibit "C" and shall include such amendments, if any, as may be adopted from time-to-time pursuant to the terms thereof.

Section 7. "Common Area" shall mean any real property interests within the Community designated as Common Areas from time to time by the Declarant, by a Plat or by a recorded amendment to this Declaration or Supplemental Declaration, as well as any personal property located thereon or owned by the Association, and provided for, owned, leased by, or dedicated to, the common use and enjoyment of the residents within the Community. The Common Areas may include, without limitation, private roads, the Access Control System, recreational facilities, entrance features, signage, irrigation lines and equipment, landscape buffers, mail kiosk(s), and improvements, which are owned by or dedicated to the Association. NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, THE DEFINITION OF "COMMON AREA" AS SET FORTH IN THIS DECLARATION IS FOR DESCRIPTIVE PURPOSES ONLY AND SHALL IN NO WAY BIND, OBLIGATE OR LIMIT THE DECLARANT TO CONSTRUCT OR SUPPLY ANY SUCH ITEM AS SET FORTH IN SUCH DESCRIPTION, THE CONSTRUCTION OR SUPPLYING OF ANY SUCH ITEM BEING IN THE DECLARANT'S SOLE DISCRETION.

Section 8. "Community" or "Soluna" means the community planned for development upon the property described in Exhibit "A" or any property annexed as provided herein; the said being within the County.

Section 9. "County" shall mean Collier County, Florida.

Section 10. "Declarant" means D.R. Horton, Inc., a Delaware corporation, or any successor of Declarant who may be assigned all or a part of the rights and obligations of Declarant pursuant to a written assignment executed by Declarant and recorded among the Public Records of the County. Use of the term "Declarant" herein shall have the meaning of the term "developer" in Sections 720.303 - 720.315 of the HOA Act, as applicable, but references to "Declarant" herein are not intended to mean one who constructed and was responsible for the site development and infrastructure for the Community including, but not limited to, underground utilities, grading, excavating, erosion control and road work, to the extent such may be a person or entity different from Declarant.

Section 11. "Declaration" means this instrument and shall include such amendments and supplements, if any, as may be adopted and recorded in the public records of the County from time to time pursuant to the terms hereof.

Section 12. "HOA Act" shall mean Chapter 720, Florida Statutes, as amended from time to time.

Section 13. "Home" is a single-family dwelling constructed upon and including a Lot.

Section 14. "Institutional First Mortgage" is a mortgage executed in favor of an Institutional First Mortgagee, which mortgage is a first and prior mortgage encumbering a Home.

Section 15. "Institutional First Mortgagee" is a bank, federal savings bank, and loan association, any insurance company, pension fund, real estate trust, Federal National Mortgage Association or its assigns, Federal Home Loan Mortgage Company or its assigns, or any other party engaged in the business of mortgage financing, which owns or holds a first and prior mortgage encumbering a Home, and shall include any corporate subsidiary of such entity.

Section 16. "Lot" is a designated lot within the property described on the Plat or any property annexed thereto and becoming a part of the Property conveyed or to be conveyed to an Owner upon which there has been constructed or will be constructed a Home.

Section 17. "Member" is every person or entity who is a member in the Association by ownership of a Lot and in accordance with Article III herein.

Section 18. "Operating Expenses" is all actual and estimated costs and expenses of operating the Association, as determined appropriate in the discretion of the Board, and may include, but is not limited to, salaries and management fees, professional fees, service, and material costs, telecommunications service costs, costs of supplies and equipment, and any and all costs relating to the discharge of the Association's obligations hereunder; and further in meeting the costs to be incurred by the Association in performing its contractual or other duties and in exercising its prerogatives, including without limitation costs incurred for the operation, maintenance, repair, replacement, and improvement of the Common Areas. Operating Expenses shall not include reserves.

Section 19. "Owner" is the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those parties having such interest merely as security for the performance of any obligation.

Section 20. "Permit" shall mean the Environmental Resource Permit attached hereto as **Exhibit "D"** or other permits issued for Surface Water Management Systems (hereinafter defined) by the WMD (hereinafter defined) Copies of the Permit and any future permit actions of the WMD shall be maintained by the Association for the benefit of the Association and by the registered agent of the Association .

Section 21. "Plat" is the plat or plats of the Property, to be recorded in the Public Records of the County as the same may be amended from time to time. The term Plat shall also

include any additional plats of property subsequently added to the terms of this Declaration by a supplemental Declaration.

Section 22. "Property" is the property described in Exhibit "A" and such additions thereto as may hereafter be brought within the jurisdiction of the Association and subject to the terms of this Declaration.

Section 23. "Rental Period" shall have the meaning set forth in Article VII, Section 22 herein.

Section 24. "Rules" are collectively the rules and regulations, which the Board of Directors may promulgate or impose and thereafter modify, alter, amend, rescind and augment any of the same with respect to the use, operation, and enjoyment of the Property and any improvements located thereon.

Section 25. "Supplemental Declaration" shall mean and refer to an instrument filed in the Public Records of the County pursuant to Article II below which subjects additional property to this Declaration, creates additional classes of members, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument. The Declarant may, by Supplemental Declaration, create additional classes of membership with such rights, privileges and obligations as may be specified in such Supplemental Declaration in recognition of the different character and intended use of the property subject to such Supplemental Declaration.

Section 26. "Surface Water Management System" or "SWMS" shall mean the collection of devices, improvements, or natural systems whereby surface waters are controlled, impounded or obstructed. This term includes exfiltration trenches, mitigation areas, swales, retention and detention areas, water management areas, ditches, culverts, structures, dams, impoundments, reservoirs, drainage easements and those works defined in Section 373.403, Florida Statutes (as may be amended from time to time). The SWMS includes those works authorized by WMD pursuant to the Permit. The Association will be responsible for operation and maintenance of the SWMS.

Section 27. "Tenant" shall mean any person or person(s) who are renters, tenants or the like under a lease agreement with the Owner of a Lot for occupancy of the Home on the Lot.

Section 28. "Turnover" shall have the meaning set forth in Article III, Section 2 herein.

Section 29. "WMD" shall mean the Southwest Florida Water Management District.

The foregoing definitions shall be applicable to this Declaration and to any Supplemental Declaration hereto or any amendment to this Declaration, unless otherwise expressly provided herein or therein.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Legal Description. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the County, and is the property described in Exhibit "A", and such additions as may hereafter be brought within the jurisdiction of the Association and subject to the terms of this Declaration.

Section 2. Application of Declaration. The Property shall be held, transferred, sold, conveyed and occupied subject to the terms and conditions of this Declaration, and any and all supplements and lawful amendments hereto and any and all supplements and lawful amendments thereto. By receipt of delivery of a deed to any of the Property or other instrument evidencing ownership, whether or not it shall be so expressed in any such deed or other conveyance or adjudication, each Owner hereby agrees to abide by and accept title to such portion of the Property and all terms and provisions of this Declaration. THE FILING OF THIS DECLARATION AND SUBJECTING THE PROPERTY TO THE COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, AND EASEMENTS CONTAINED HEREIN SHALL NOT BE CONSTRUED IN ANY WAY AS INHIBITING OR PROHIBITING WAIVER OF ASSOCIATION PROCEDURES UNDER THE BYLAWS OR THE HOA ACT BY DECLARANT AND ANY DESIGNATED OPERATOR DURING THE RENTAL PERIOD (EXCEPTING THOSE PROCEDURES AND ACTS REQUIRED BY LAW TO BE PERFORMED).

Section 3. Addition and Withdrawal of Property.

(a) Annexation of Additional Property. As the owner thereof, or if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege and option, from time to time prior to Turnover, to annex and subject to the provisions of this Declaration and the jurisdiction of the Association, all or any portion of the real property described in a Supplemental Declaration. Any such annexation shall be effective upon the filing of record of such Supplemental Declaration unless otherwise provided therein.

(b) Withdrawal of Property. Prior to Turnover, Declarant shall have unilateral authority to withdraw portions of the Property owned by Declarant from the terms and conditions of this Declaration. For purposes of this Declaration, the portion of the Property withdrawn from the terms hereof shall be referred to as the "**Withdrawn Property**." In order to withdraw such portion of the Property from the terms of this Declaration, Declarant shall record in the Public Records of the County an instrument executed with the formalities of a Deed, which instrument shall make reference to this Declaration, state that the purpose of the instrument is to withdraw the Withdrawn Property from the terms and conditions of this Declaration, and contain a legal description of the Withdrawn Property. Declarant shall have the right to withdraw portions of the Property from the terms and conditions of this Declaration without the joinder, ratification or approval of the Association, any Owner, or any lienholder, provided that Declarant is the fee simple owner of the Withdrawn Property. Upon the withdrawal of the Withdrawn Property from the terms and conditions of this Declaration, the Withdrawn Property shall no longer be subject to the terms of this Declaration, including all exhibits hereto, or any other covenants, restrictions and/or regulations provided herein or adopted hereunder, except for those easements, rights-of-

way, or other portions hereof which, by their terms, specifically survive the termination of this Declaration, which shall include the withdrawal of such lands from the terms and conditions of this Declaration.

ARTICLE III **MEMBERSHIP AND TURNOVER**

Section 1. Membership and Voting. Except as otherwise provided herein, every person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject to this Declaration shall be a Member of the Association. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership for each Lot owned. Membership shall be appurtenant to a Lot and may not be separated from ownership of the Lot. Votes may be cast by Members in accordance with the Bylaws.

Section 2. Turnover. Turnover of control of the Association shall take place upon the earlier of the following to occur, or as otherwise required by law:

- (a) Three (3) months after ninety (90%) percent of the Lots ultimately planned for the Community have been conveyed from Declarant to Lot Owners other than a Builder, an Operator or to a third-party to whom Declarant rights are assigned; or
- (b) Thirty (30) days after the Declarant elects to terminate the Class B Membership in a written instrument signed by Declarant and delivered to the Secretary of the Association.

ARTICLE IV **PROPERTY RIGHTS**

Section 1. Membership Easements of Enjoyment. Every Owner and their authorized guests and Tenants shall have a right and easement of enjoyment in and to the non-exclusive use of the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

(a) The right of the Declarant or the Association to establish, from time to time, certain easements over the Common Area for utilities, broadband communications, cable television and other common services purposes;

(b) The right of the Association or designated Operator to charge reasonable fees for the use of designated facilities (if any) on the Common Area and to temporarily close facilities for repair or maintenance or other purposes;

(c) Existing easements and agreements of record and those easements granted by the Declarant or the Association in accordance herewith, including without limitation private access easement granted to the Association for the use and benefit of the Owners, their guests, Tenants, and invitees, if any; and

(d) Easements referred to in Article X hereof;

(e) The right to the use and enjoyment of the Common Area and facilities thereon, once construction thereof has been completed, shall extend to all Owners and their family, Tenants, guests and invitees, provided subject to regulation under this Declaration and Rules promulgated by the Association;

(f) The other provisions of this Declaration, the Articles and Bylaws.

Section 2. Common Area.

(a) Ownership. In the event any Common Area is dedicated to the Association, the Declarant will convey such Common Area to the Association and the Association shall maintain the Common Area conveyed to it. In addition, any easement granted in favor of the Association shall be maintained by the Association in accordance with the terms of any such grant or dedication as if such easements were Common Areas; provided, however, the use and enjoyment of such easements shall be limited to the purpose for which they were intended. The Association shall be obligated to accept conveyance of any Common Areas or grants of easements from the Declarant as deemed necessary or advisable by Declarant. The Association shall have the right to promulgate Rules for the use of Common Areas and such shall be enforceable against all Owners and their guests, Tenants and invitees. Common Area shall include all property dedicated to the Association on a Plat, as well as all property conveyed to the Association.

(b) The cost of any maintenance, repair or replacement caused by the negligent conduct of an Owner or its guest, Tenants or other invitees or by the failure of an Owner, Tenant or guest to comply with the Rules of the Association shall be the responsibility of the Owner or its guest, Tenants or other invitees, as applicable.

(c) Rules. The Association, through its Board of Directors, may make and enforce reasonable Rules governing the Common Areas. Violations of such Rules or provisions of this Declaration may result in monetary fines levied in accordance with the HOA Act, and suspension of amenity and Common Area use rights. The Board of Directors shall, in addition, have the power to seek relief in any court for violations or to abate nuisances.

Section 3. Declarant's, Operator's and Builders' Reserved Rights. Notwithstanding any provision herein to the contrary, the property rights under this Article IV shall be subject to:

(a) The right of Declarant to enter into agreements, execute all documents and take such actions and do such acts affecting the Property or the Common Area which, in the Declarant's sole discretion, are desirable or necessary to facilitate the Declarant's, Operator's or Builders' development, construction, leasing, sales and marketing of the Property.

(b) Easements of record on the date hereof and any easements which may hereafter be granted by Declarant to any public or private utilities, adjacent property owners, or governmental bodies for the installation and maintenance of cable television, electrical and telephone conduit and lines, sewers or water pipes, irrigation lines, or any other utilities or services to any Lots within the Property or any portion of the Common Areas, or such easements as Declarant may determine are necessary or beneficial for the maintenance or preservation of the Property;

(c) The Declarant, Operator and each Builder, as applicable, shall have full rights of ingress and egress to and through, and over and about the Property, including all Common Areas, during the Rental Period and such additional period of time as Declarant or such Builder is engaged in any development, construction or improvement work, sales, leasing or marketing of the Community on or within the Property, and the Declarant and Builders shall further have an easement thereon for the purpose of storage of materials, vehicles, tools, equipment, etc., which are being utilized in such development or construction and for the use and maintenance of signs, banners, and the like being used in connection with the sale or promotion of the Property, or any portion thereof. The Declarant, Operator and Builders shall further have the right to operate and maintain models, sales centers and leasing offices and to operate and open gates and access to the Community to facilitate sales, leasing and marketing of the Community during the Rental Period and until Turnover. Declarant and Operator shall also have the right to control the operation and opening of any Access Control System to facilitate construction, sales, leasing and marketing of the Community. No Owner, his Tenants, guests, employees, servants, agents and invitees shall in any way interfere or hamper Declarant, Operator, Builders, or any of their agents, servants, employees, invitees, successors or assigns, in connection with such construction, development, promotion, leasing or sales activity;

(d) The Declarant shall have full right to assign any or all of its right, title and interest in the Property, both as Declarant and as a Member of the Association, to another party by the execution and recording of a proper instrument in the Public Records of the County; and

(e) Notwithstanding anything contained herein to the contrary, neither the Declarant, nor Builders, nor the Association makes any representation whatsoever as to the commencement, completion or construction of any recreational facilities or other improvements within or upon the Common Areas. Title to any portion of the Common Areas owned by Declarant may be transferred to the Association at any time, provided that, title to all portions of the Common Areas owned by Declarant shall be transferred to the Association no later than Turnover. The transfer of title to any portion of the Common Areas to the Association shall be subject to: (i) all rights of Declarant and other persons set forth in this Declaration; and (ii) any restrictions or limitations contained in the instrument conveying such portion to the Association. THE ASSOCIATION AND EACH OWNER SHALL BE OBLIGATED TO ACCEPT THE COMMON AREAS AND ANY IMPROVEMENTS LOCATED THEREON IN THEIR "AS-IS" CONDITION. NEITHER THE DECLARANT NOR ANY BUILDER MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, ALL OF WHICH ARE DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW, WITH RESPECT TO THE COMMON AREAS AND THE IMPROVEMENTS THEREON INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, THE CONSTRUCTION, DESIGN, ADEQUACY OF SIZE OR CAPACITY RELATED TO THE USE OF THE SAME, DATE OF COMPLETION OR FUTURE ECONOMIC PERFORMANCE OR OPERATION OF THE COMMON AREAS AND THE IMPROVEMENTS THEREON, INCLUDING ALL MATERIALS, FIXTURES, PERSONAL PROPERTY OR EQUIPMENT THEREIN. FURTHER, THE DECLARANT MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, THAT THE PLANS PRESENTLY ENVISIONED FOR THE COMPLETE DEVELOPMENT OF THE PROPERTY CAN OR WILL BE CARRIED OUT, OR THAT ANY REAL PROPERTY NOW OR HEREAFTER ACQUIRED BY DECLARANT IS OR WILL BE SUBJECT TO THIS

DECLARATION, OR THAT ANY SUCH REAL PROPERTY (WHETHER OR NOT IT HAS BEEN SUBJECTED TO THIS DECLARATION) IS OR WILL BE COMMITTED TO OR DEVELOPED FOR A PARTICULAR (OR ANY) USE, OR THAT SUCH REAL PROPERTY IS ONCE USED FOR A PARTICULAR USE, WILL CONTINUE IN EFFECT.

Section 4. No Dedication to Public Use. Nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Property for public use, except for access to and from and throughout the property described in the Plat or any additions thereto for emergency access, law enforcement and persons providing essential services to the Community and its Members.

Section 5. Incorporation of Easements by Reference. Reference in the respective deeds of conveyance, or any mortgage or trust deeds or other evidence of obligation, to the easements and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees or trustees of said parcels as fully and completely as though said easements and covenants were fully recited and set forth in their entirety in such documents.

Section 6. Surface Water Management. It is acknowledged that the Property is located within the boundaries of the WMD and that an easement is hereby created over the entire Property for the surface water drainage and storage, and for the installation and maintenance of the Surface Water Management System for the Property in accordance with the Permit; provided, however that such easement shall be subject to improvements constructed within the Property as permitted by controlling governmental authorities from time to time. The Surface Water Management System shall be owned by the Association and shall be operated and maintained by the Association and/or its agents, in compliance with all approvals, codes and regulations of governmental authorities and the WMD. Such operation and maintenance shall specifically include all utility costs and equipment related to the obligations hereunder, as well as any ongoing monitoring which the Association is required to perform pursuant to the Permit.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments to be Paid to the Association. The Declarant, for each Lot owned by it within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance (including any purchaser at a judicial sale), is deemed to covenant, which covenant shall run with the land and be binding on every Owner, and agrees to pay to the Association: (1) any Regular Assessments (as defined below) or charges for the payment of Operating Expenses of the Association (including, without limitation, payment of taxes which may be assessed against any Common Areas or any personal property which may in the future be owned by the Association) ("**Regular Assessments**"); and (2) any special assessments for improvements, or to fund any deficits between the amount collected for Regular Assessments in accordance with the annual budget and the amount determined necessary by the Association for the proper management and maintenance of the Common Areas, together with other costs and/or expenses levied or imposed against the Association or property of the Association ("**Special Assessments**"); and (3) any individual assessments or charges incurred by

the Association on behalf of one or more Lots but not all Lots (“**Individual Assessments**”). All such Regular Assessments, Special Assessments and Individual Assessments, collectively referred to as “**Assessments**”, shall be fixed, established and collected from time to time as hereinafter provided, and unless waived, in accordance with the HOA Act. The Assessments, together with such interest thereon and costs of collection thereof, including attorney’s fees, as hereinafter provided and any applicable late fee imposed by the Board of Directors, shall be a charge on the Property and shall be a *continuing lien* relating back to the date of recordation of the Declaration upon any Lot against which each such assessment is made, and said lien may be enforced in the same manner in which mortgages are enforced. The lien of the Assessments provided for herein shall be superior to all other liens except tax liens and the liens of any bona fide Institutional First Mortgage to an Institutional First Mortgagee recorded prior to any lien for Assessments by the Association. Each such Assessment, together with interest, costs (including applicable late fees), and reasonable attorneys’ fees for its collection, including attorneys’ fees involved at all appellate levels and whether or not suit is instituted, shall also be the personal obligation of the person or entity who was the Owner of the Lot at the time when the Assessment becomes due. Each Owner shall be jointly and severally responsible with the previous Owner for all Assessments due to the Association prior to the transfer of title, without prejudice to any right the present Owner may have to recover any amounts paid by the present Owner from the previous Owner.

Section 2. Purpose of Assessments. Any Assessments levied by the Association shall be used for, among other things, the purpose of operating and maintaining the Association and the Community.

Section 3. No Reserves. Reserve funding is not provided for by this Declaration and neither Declarant or an Operator shall be responsible to contribute any monetary amount for reserves.

Section 4. Declarant’s Right to Deficit Fund Association Expenses. Notwithstanding any provision that may be contained to the contrary in this Declaration, during the Rental Period, an election may be made by Declarant or any successor Declarant for itself, or by Declarant and/or a designated Operator as the Owner(s) of all Lots in the Community, to pay all expenses of the Association as they are incurred for the management and maintenance of the Property in accordance with this Declaration; which election would be in lieu of the adoption of an annual budget and in lieu of the Association levying and collecting Assessments. In the event of such election and following the termination of the Rental Period, the Declarant and any designated Operator, as applicable, shall have no further liability of any kind to the Association for the payment of expenses as described in this Section 4, other than those that arose to prior to termination of the Rental Period. In the event of termination of the Rental Period and for the period prior to Turnover, Declarant may elect to fund deficits in Operating Expenses in accordance with the HOA Act, or elect to pay assessments on the Lots it owns like other Owners.

Section 5. Rate of Assessments. In the event Declarant does not make an election under Section 4, but rather levies Assessments pursuant to an adopted budget for expenses, Lots without a Home, due to a reduced level of services provided by the Association compared to Lots with a Home capable of occupancy, shall not be assessed until such Lot is improved with a Home, and (b) Lots owned by the Declarant shall be exempt from payment of Assessments during any period of time that Declarant is funding deficits in Assessments levied on non-Declarant owned

Lots for Operating Expenses. Declarant makes no guarantee as to a maximum level of Assessments which may be levied and due from non-Declarant Owners.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Review of Proposed Additions/Alterations. During the Rental Period, unless previously approved by Declarant or a designated Operator, as applicable, in writing, no Tenant or occupant of a Home may alter the appearance of the exterior of the Home or make any improvement or alteration of any kind on the Lot, including, but not limited to those related to fences, walls, walkways, driveways, windows, trim, awnings, lighting, shutters, roofing, landscaping, antennas, pools, patios, exterior colors or materials or fixtures. The Declarant may condition its approval of proposals, plans and specifications as it deems appropriate, for aesthetic or any other reason, and may require plans and specifications or other information prior to approving or disapproving any request submitted. Following any termination of the Rental Period, no such alterations or additions may be made without the prior approval of the Board of Directors in accordance with guidelines for architectural standards and procedures or Rules adopted by the Board.

Section 2. No Waiver of Future Approvals. Neither the approval of Declarant (or the Board, as applicable) of any proposals or plans and specifications or drawings for any alterations or additions to Lots or Homes, or in connection with any other matter requiring the approval and consent of the Declarant or Board of Directors, nor the failure to require correction of any unapproved alterations, shall be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whether subsequently or additionally submitted for approval or consent.

Section 3. Liability. Neither Declarant or any member of the Board of Directors or the Association shall be liable to any Owner or other person by reason of mistake in judgment, failure to point out deficiencies in plans, or any other act or omission in connection with the approval of any plans or specifications. Any Owner submitting plans hereunder by the submitting of same, agrees (i) not to seek any damages or make any claim arising out of approval of plans hereunder, and (ii) to indemnify and hold the Board of Directors, the Association and Declarant harmless from any cost, claim, damage, expense or liability whatsoever, including attorneys' fees and costs at all tribunal and appellate levels (and whether or not suit is instituted), arising out of the approval of any plans regardless of the negligence of the Board members or Declarant.

ARTICLE VII

USE RESTRICTIONS

The following Use Restrictions shall apply to all Lots within the Community, except for any Lots owned by the Declarant, a designated Operator or Builders. Except as otherwise provided herein, each Owner and its guests, Tenants, occupants and invitees must comply with the following:

Section 1. Residential Purposes. No Lot shall be used for any purpose other than for residential purposes. The occupancy of each Home shall be limited to the maximum number of

persons allowable in accordance with Federal Regulations and local ordinances based on the size and configuration of the Home.

Section 2. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, barn, shed or other out-building shall be placed or used on any Lot without the prior written approval of Declarant, or if after Turnover, by the Board. No such structures, even if approved, shall at any time be used as a residence or appurtenance to such residence, either temporary or permanent. The foregoing shall not apply to temporary construction trailers or other temporary structures used by the Declarant or a Builder.

Section 3. Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Community, or any matter which affects the health, safety or welfare of the owners or occupants of the Property, as determined by the Board in its sole discretion. Such activity shall specifically include, but not be limited to, the use or discharge of firecrackers or fireworks. This Section shall not apply to sales, leasing, marketing, construction and development activities by Declarant, Operator or Builders.

Section 4. Pets. No animals of any kind, including but not limited to livestock, swine, poultry, reptiles or insects (including bees) shall be kept, maintained, or bred in any Home or elsewhere within the Property. No pets shall be kept, maintained or bred in any Home except for fish in an aquarium and birds in cages maintained in the interior of the Home and not more than a total of three (3) domestic dogs (other than dogs which in the reasonable determination of the Board of Directors or under applicable codes, ordinances, or regulations are determined to be a threat to the safety of the occupants of the Property which shall not be allowed under any circumstances in the Property) or three (3) domestic cats shall be permitted to be kept in a Home or Lot, provided such animals are not kept, bred or raised for commercial purposes. In no event may more than three (3) total pets be permitted to be kept in a Home. Each person bringing or keeping a pet within the Property shall be absolutely liable to the Association, other Owners and their invitees for any damage to persons or property caused by any pet brought upon or kept upon the Property and it shall be the duty and responsibility of each such Owner to clean up after such animals which have deposited droppings or otherwise used any portion of the Property or street abutting or visible from the Property. Animals belonging to Owners, Tenants, guests or invitees of any Owner or Tenant, when outside the Home in the Community must be kept within an enclosure or, on a leash held by a person capable of controlling the animal. No pets shall be "tied out" in a yard or on a porch or patio and left unattended for any extended period of time. Outdoor kennels, cages and dog runs are not permitted on any Lot. The Association shall have the right to promulgate Rules relating to animals and the right to restrict or require removal any such animals determined by the Board or applicable codes or regulations to constitute a nuisance or danger to the Community. In addition, all pet owners shall be required to maintain at all times (a) adequate homeowners' or renters' insurance coverage for any and all liabilities related to the pet(s) owned and kept on the Lot, which insurance shall name the Association as an additional insured to the extent such endorsement is available and (b) current vaccinations as required by applicable state and local law and records relating to such vaccinations for any pet(s) owned and kept on the Lot. Evidence of such insurance coverage and vaccinations shall be provided by the Owner or renter to the Association upon request. If such evidence is not provided as required herein, the Board shall

have the right to require the pet to be removed from the Lot until the appropriate insurance coverage or vaccination, as the case may be, is obtained.

Section 5. Signs. No sign of any kind shall be displayed to the public view on any Lot, excepting Lots owned by Declarant or an Operator, other than one sign not larger than 18" X 24" and placed in one ground floor window or one second story window and limited to content advertising the property for sale or for rent. The Declarant specifically reserves the right, for itself and for a designated Operator, Builders, and their respective agents, employees, nominees and assigns the right, privilege and easement to construct, place and maintain upon any property within the Community such signs as the Declarant deems appropriate in connection with the development, improvement, construction, marketing, leasing and sale of any of the Lots and Homes; provided, however, notwithstanding anything to the contrary herein.

Section 6. Garbage. No Lot shall be used or maintained as a dumping ground for rubbish. All trash and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon. Trash, garbage or other waste shall be kept in sanitary, covered containers, and shall be kept within an enclosed garage or side yard provided the containers are shielded with landscaping, fencing, wall or other approved method as determined by the Board until the evening before or the morning of curbside garbage pick-up, and such garbage containers must be picked up and stored in the garage no later than 8:00 p.m. on the day of such curbside garbage pick-up. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. In no event shall such equipment and/or containers be visible from the Common Area streets, from neighboring property or within the Property, except for a reasonable time immediately prior to and after scheduled trash collection, and in all events in compliance with any municipal or County Codes or regulations. This Section shall not apply to normal construction debris on the Property during the course of development of the Community by the Declarant or the construction of a Home or improvements on other portions of the Property (as approved by Declarant) by a Builder.

Section 7. Laundry; Renewable Energy Devices. Subject to the provisions of Section 163.04, Florida Statutes, as may be amended from time to time, to the extent applicable, no rugs, mops, or laundry of any kind, or any other similar type article, shall be shaken, hung or exposed so as to be visible outside the Home or Lot. Clotheslines may be installed in the rear of a Lot so long as not visible from the front of the Lot; provided, that, any such clothesline shall be removed when it is not in use as a clothesline. Nothing in this Declaration shall be deemed to prohibit the installation of energy devices based on renewable resources (e.g., solar collector panels); provided, however, such devices shall be installed only as approved by Declarant, or if after Turnover, the Board.

Section 8. Personal Property; Patio and Lawn Furniture. All personal property of Owners, Tenants or other occupants of Homes shall be stored within the Homes. No personal property may be used or stored on any Lot or Home which is unsightly or which interferes with the comfort and convenience of others. No patio furniture or swings shall be installed or placed within or upon any portion of the front of a Home or Lot so as to be visible from any street adjacent to the Lot or any other property, without the prior written approval of the Board. The Board may establish standards for patio furniture and patio swings at its sole discretion. All other outdoor furniture must be used and stored only in the rear of the Home and shall not be visible from the

street in front of the Home. No furniture may be stored on the lawn of the Home. The Board may require the removal of any patio furniture or lawn furniture that is unsightly or creates a nuisance in the Boards' sole discretion. In the event a Home will be unoccupied for a period of seven (7) or more days, prior to departure by the Owner, Tenants or occupants of the Home, such Owner, Tenants or occupant(s) must remove all patio furniture and lawn furniture from outside the Home and Lot. In addition, all patio furniture, lawn furniture and lawn ornaments shall be removed from outside and stored within the Home upon issuance of any storm warnings of a Tropical Storm Warning or higher storm warning. The Board has authority to regulate the placement and use of items on the Common Area.

Section 9. Vehicles and Parking.

(a) Parking in the Community is limited to designated driveways and garages or any other paved or concrete surfaces designated by the Declarant for parking. No vehicles of any nature shall be parked on any portion of a Lot or other portion of the Community, except on the surfaced parking area thereof. Vehicles shall not be parked on the paved or concrete surfaces comprising the Common Areas, except on the side of the street adjacent to the Home. Vehicles may not be parked in the street between midnight and 6:00 a.m. To the extent the Community has any guest parking (if applicable), Owners, Tenants and any other occupants of a Home are prohibited from parking in such guest parking spaces. An Owner, Tenant or other occupant of a Home may park in the Home's garage or in the driveway on the Lot, unless the Board further restricts parking to garages of Homes. Parking on streets may be further limited by the Association's Rules and Regulations. Car covers are prohibited and license tags on all vehicles must be current. No vehicle which cannot operate on its own power shall remain in the Community for more than twenty-four (24) hours, except in the garage of a Home. No repair or maintenance, except for emergency repairs of vehicles shall be made within the Community, unless in the garage of a Home. No vehicles within the Community shall be stored on blocks. No tarpaulin covers on vehicles shall be permitted anywhere within the public view. Any trailer, commercial vehicle, recreational vehicle, boat, rowboat, canoe, jet ski or boat trailer shall not be permitted to be parked outside of an enclosed garage. This restriction shall not be deemed to limit service vehicles whose purpose is to perform maintenance and delivery service to a Lot or the Association during normal working hours or for work performed for the Declarant, Builders or the Association which are necessary in the development, construction, sale, leasing, maintenance or management of the Property or Association. The term "commercial vehicle" includes trucks and vehicular equipment or other vehicles which are used, or which are ordinarily intended to be used for commercial purposes or which contain materials regularly used in trade or business. Commercial vehicles include flatbed trucks, trucks modified with larger truck beds to accommodate landscaping or other cargo, trucks fitted with equipment to be used in connection with the provision of services and vehicles equipped with more than four (4) wheels. No toolboxes or other fixtures or equipment may be permanently affixed to a vehicle and any toolboxes or other fixtures or equipment must be removed while the vehicle is parked. No vehicle taller than eighty inches (80") or longer than two hundred thirty-five inches (235") shall be permitted in the Community. As an example, the following vehicles are not permitted unless parked in the garage of the Home with the garage door closed: Ford Transit, Chevrolet Express, Dodge Ram ProMaster, Mercedes-Benz Sprinter, and Ford E-Series trucks. No vehicle that fits into the garage of the Home may be excluded, but the Board may require the Owner to park such vehicle in the garage. The Board may, in its sole discretion, provide a list of vehicles that are approved and that will fit in the garage of the Home.

The Board shall have the sole right to interpret the provisions of this section but must apply its interpretation consistently for all Owners. IN THE EVENT AN OWNER WISHES TO PURCHASE, OR A POTENTIAL PURCHASER OR RENTER OF A HOME OWNS AND INTENDS TO KEEP IN THE COMMUNITY AFTER PURCHASE OR LEASE OF A HOME, A LARGE VEHICLE, THE OWNER, POTENTIAL PURCHASER OR TENANT MUST CONTACT THE BOARD PRIOR TO THE PURCHASE TO DETERMINE WHETHER THE VEHICLE IS PERMITTED. No vehicles displaying commercial advertising or a "for sale" sign shall be parked within the public view except those of visiting contractors making repairs to a Lot or Home and this provision is specifically intended to preclude any Lot Owner or renter or other occupant from parking their personal commercial vehicle in public view. Automobiles issued by Collier County or other governmental entity (i.e., police cars), shall not be deemed to be a commercial vehicle and may be parked in the garage or driveway of the Lot. No vehicle within the Community shall be used as a domicile or residence either temporarily or permanently. No all-terrain vehicles (ATVs), mini motorcycles, go karts, or other motorized vehicles other than golf carts (as approved in accordance with this Declaration), ordinary passenger automobiles or motorized wheelchairs are permitted at any time within the Common Areas. Notwithstanding any other provision in this Declaration to the contrary, this Section shall not apply to any vehicles utilized in connection with construction, improvement, installation, or repair by Declarant, Builders or their contractors or agents.

(b) Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein, the Association is authorized to order the towing of any vehicle (at said vehicle owner's expense) for a violation of this Section if a vehicle remains in violation of this Section for a period of twenty-four (24) hours from the time a notice of violation is placed on the vehicle or if such a vehicle was cited for such violation within the preceding fourteen (14) day period. Each Owner by acceptance of title to a Home, and each Tenant by signing a lease to rent the Home, irrevocably grants the Association and its designated towing agent the right to enter a Lot and tow vehicles parked in violation of this Declaration. Neither the Association nor the towing company shall be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing or removal and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind. By accepting title to a Lot or executing a lease for the Home, the Owner or Tenant, as applicable, provides to the Association the irrevocable right to tow or remove vehicles parked on the Lot owned or rented, and on the Common Area, which are in violation of this Declaration. An affidavit of the person posting the foresaid notice stating that it was properly posted shall be conclusive evidence of proper posting. For purposes of this paragraph, "vehicle" shall also mean campers, boats, watercraft, mobile homes, trailers, etc.

Section 10. Septic Tanks. No septic tanks or individual wells will be permitted on any Lot.

Section 11. Garages. No garage may be improved or otherwise used for purposes of a living area, nor shall garage doors be removed except for replacement (in which case the Owner must obtain approval of any replacement door from Declarant in accordance with Article VI, or following Turnover, from the Board of Directors. No garage may be used for the operation of a business or for any commercial purpose of any kind. Garage doors shall remain closed at all times except when vehicular or pedestrian access is required.

Section 12. Window Covering. No external window covering, reflective window covering or iron or decorative bars (either interior or exterior) may be placed or permitted to remain on any window of any building without the prior written approval of Declarant (or the Board, if after Turnover). Window treatments shall consist of drapery, blinds, decorative panels, or other window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) week after an Owner or Tenant first moves into a Home or when permanent window treatments are being cleaned or repaired. No security bars shall be placed on the windows of any Home without prior written approval of Declarant, or the Board, as applicable after Turnover. No awnings, canopies or shutters shall be affixed to the exterior of a Home without the prior written approval of the Declarant, or the Board, as applicable after Turnover. No reflective tinting or mirror finishes on windows shall be permitted unless approved by the Declarant, or the Board, as applicable after Turnover. Window treatments facing the street shall be of a neutral color, such as white, off-white or wood tones. Window or wall air conditioner units are prohibited.

Section 13. Flags. No flags or banners will be permitted other than a Flag permitted by Section 720.304, Florida Statutes, or other local, state or federal law, which must be displayed in a respectful manner and which is subject to reasonable standards for size, placement and safety as may be adopted by the Board or the ARC, as applicable. The Declarant, Builders, an Operator and the Association are exempt from this Section; provided, further, the Declarant specifically reserves the right, for itself and for Builders and Operators, and their respective agents, employees, nominees and assigns the right, privilege and easement to construct, place and maintain upon any property within the Community such flags as the Declarant deems appropriate in connection with the development, improvement, construction, marketing, leasing and sale of any of the Lots and Homes.

Section 14. Business Activity. Except for normal construction activity, leasing of Homes, sale, and re-sale of a Home, sale or re-sale of other property owned by Declarant or Builders, administrative offices of Declarant or Builders, no commercial or business activity shall be conducted in the Community that disrupts the residents, including without limitation, within any Home. No portion of the Common Areas may be used for any commercial or business purpose, including but not limited to fitness training, without the prior written consent of the Board. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a home business office within a Home for such Owner's personal use; provided, however, business invitees, customers, and clients shall only be permitted if the business is conducted within the Home and shall not disrupt the residential nature of the Community unless the Board of Directors provides otherwise in the Rules. No Owner or other person may actively engage in any solicitations for commercial purposes within the Community. No day care center, child care facility, elder care facility, assisted living facility or halfway house may be operated out of a Home, unless prohibition of such would be contrary to applicable fair housing laws. No garage sales are permitted, except as permitted by the Board.

Section 15. Pools. Above ground swimming pools are not permitted on Lots. Above ground hot tubs may be permitted on lanais or patios so long as the hot tub is under the roof of the Home and has been approved in advance in writing by Declarant, or if after Turnover, by the Board.

Section 16. Telecommunications. No exterior visible antennae, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home or Lot without the prior written approval thereof being first had and obtained from the Declarant, or if after Turnover, by the Board. No Owner, Tenant or occupant shall operate any equipment or device which will interfere with the radio or television reception of others. All antennas not covered by the Federal Communications Commission ("FCC") rules are prohibited.

Section 17. Hurricane Shutters. Any hurricane shutters or other protective devices visible from outside a Home shall be of a type as approved by Declarant, or or if after Turnover, by the Board. Panel, accordion and roll-up style hurricane shutters may not be left closed or installed during hurricane season (i.e. June 1 through November 30 of each year). Such hurricane shutters may be installed upon forty-eight (48) hours prior to the expected arrival of a hurricane and must be removed within seventy-two (72) hours after the end of a hurricane watch or warning or as the ARC may determine otherwise. Approved hurricane shutters that are clear or match the paint color of the Home may be left closed or installed during hurricane season (i.e. June 1 through November 30 of each year). Except as the Board may otherwise decide and as provided herein, shutters may not be closed at any time other than a storm event. Notwithstanding the foregoing, in the event of an emergency and issued storm warning, temporary emergency storm protective window coverings may be installed up to seventy-two (72) hours prior to the expected arrival of a storm, which must be removed within seventy-two (72) hours after the end of such storm. Bahama type shutters are not allowed.

Section 18. Lakes/Ponds. Bodies of water located within the Community shall not be used for recreational purposes, including swimming, fishing, boating, jet skiing, or any other types of water sports. Swimming, wading or fishing in any body of water within the Community is prohibited. No planting, fencing or other improvements or additions to the landscape area or grassed area surrounding any body of water in the Community and within the maintenance easements surrounding the bodies of water are permitted. No installation of sand or other materials intended to simulate a beach shall be permitted along the lake banks, within the maintenance easements surrounding the lake or rear yards of Lots adjacent to the lakes. The Association has the right to further restrict use of bodies of water in the Community in promulgated Rules established by the Association.

Section 19. Drones and other Unmanned Aerial Systems. Drones and other unmanned aerial systems may only be used within the Community in accordance with applicable federal, state and local laws. Any purported violations of such law(s) should be reported to governmental authorities instead of to the Association.

Section 20. Gardens and Plantings. No Lot may have a plot of ground where herbs, fruits, flowers or vegetables are grown in the front yard of the Lot. Any garden in the rear yard, if planted or authorized by the Lot Owner, must be screened from view of adjacent property.

Section 21. Drainage System and Improvements. The Association shall be responsible for operation, repair and maintenance of all drainage systems and facilities, which may be comprised of swales, pipes, pumps, retention/detention area slopes, easements, or other improvements (the "**Drainage Improvements**"), and which may be located within Common Areas or Lots and such Drainage Improvements are considered part of the SWMS; as well as for

the maintenance of grassy and lawn areas and routine maintenance of any drainage easements located upon the Lots. NOTWITHSTANDING THE FOREGOING, THE ASSOCIATION, BUILDERS, AND THE DECLARANT SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR DRAINAGE PROBLEMS OF ANY TYPE WHATSOEVER OCCURRING AS A RESULT OF A MALFUNCTION OF A PORTION OF A DRAINAGE SYSTEM ON A LOT.

Section 22. Leases/ Rental Operation. Declarant reserves unto itself, its successors and assigns, and those persons or entities designated by written acknowledgement of Declarant as an operator (each, an “Operator”), the right, authority and power to rent each, any or all such Homes located on Lots owned by Declarant or Operator, under such terms as Declarant or Operator, in its sole discretion may decide, for so long as Declarant or Operator is the Owner of said Lots (the “Rental Period”). During the Rental Period, Declarant may, in its sole discretion, and with the consent of Operator, if applicable, dispense with and/or waive any or all Association procedural requirements established by this Declaration, the Articles of Incorporation, the Bylaws or the HOA Act, except those procedures and acts which the Association is required by law to perform. In the event during the Rental Period Declarant dispenses with and/or waives any Association procedural requirement, no right under such dispensed or waived Association procedural requirement shall inure or accrue to any Tenant, occupant or invitee of any Lot or Home. The Rental Period shall continue indefinitely so long as Declarant, its successors and assigns and if designated, an Operator, own all Lots in the Community and hold for residential leasing purposes the Lots improved with Homes.

Section 23. Exemptions. Notwithstanding anything to the contrary, any restrictions contained in this Article that would disrupt, inhibit, limit or impede the construction, leasing, sales, and marketing of Homes in the Community as determined by Declarant or a designated Operator, as applicable, in their sole discretion, shall not apply to the Declarant, Operator or Builders.

ARTICLE VIII **EASEMENTS**

Section 1. Public Services. Easements are reserved over each Lot and the Common Areas for public service purposes including but not limited to, police protection, fire protection, emergency services, postal service and meter reading.

Section 2. Utilities. Easements for ingress and egress and for the installation and maintenance of all utilities, irrigation lines and equipment, Surface Water Management System, surface water management and drainage facilities, landscaping, fencing, signage, and street lighting are reserved on and over each Lot and the Common Areas in favor of the Association and other entities with maintenance responsibilities related to the same. Such easements are reserved for their intended purpose and shall not be removed by subsequent Owners. The right is also reserved to the Declarant and the Association to create additional utility easements by separate instrument as may be required from time to time.

Section 3. Encroachments. Notwithstanding any other provisions contained in this Declaration, in the event that any Home, as constructed by the Declarant or a Builder on a Lot, encroaches upon any portion of the Common Area or an adjoining Lot, then a perpetual easement appurtenant to such Lot shall exist for the continuance of any such encroachment on the Common

Area or adjoining Lot. In the event any fence, roof, overhanging roof, or portion of the Home, as constructed upon any Lot by Declarant or a Builder, encroaches or overlaps upon any other Lot or the Common Area, then, in such event, a perpetual easement appurtenant to the Lot upon which the fence, roof, overhanging roof, or Home is constructed shall exist for the continuation of any such encroachment or overlapping upon the adjoining Lots or Common Area.

Section 4. Common Area Maintenance. An easement is reserved over the Property, including each Lot, in favor of the Association for maintenance of the Common Area and to allow the Association to fulfill any and all of its maintenance obligations hereunder.

Section 5. Drainage. A non-exclusive easement shall exist in favor of the Declarant, the Association and its designees, the WMD, the County, and/or any governmental agency having jurisdiction over the Community, over, across and upon the Community for drainage, irrigation and water management purposes. Any such drainage easement shall not contain permanent improvements, including, but not limited to, sidewalks, driveways, impervious surfaces, patios, decks, pools, air conditioners, structures, utility sheds, poles, fences, irrigation systems, trees, shrubs, hedges or landscaping plants other than grass, except for (i) improvements installed by the Declarant or a Builder, (ii) landscaping of the SWMS, (iii) as required by the County or the Permit, and/or (iv) improvements approved by Declarant, or as applicable, the Board. A non-exclusive easement for ingress and egress and access exists over, across and upon the Community for such parties in order to construct, maintain, inspect, record data on, monitor, test, or repair, as necessary, any water management areas, conservation areas, mitigation areas, irrigation systems and facilities thereon and appurtenances thereto. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage or irrigation of the Community and/or installation or maintenance of utilities or which may obstruct or retard the flow of water through the Community and/or water management areas and facilities or otherwise interfere with any drainage, irrigation and/or easement provided for in this Section or the use rights set forth elsewhere in this Declaration.

Section 6. Maintenance of Easement Areas. Within any of the easement areas hereby reserved or created, or shown on the Plat of the Community, or within designated Common Areas or other portion of the Property containing any component of the Surface Water Management System, no digging, excavation, depositing fill material, debris or any other material or item, or altering any water control structure, or any other construction to modify the Surface Water Management System shall be allowed, and no permanent structure may be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow or drainage canals in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The area of each Lot upon which an easement is located shall be maintained continuously by the Owner of the Lot, except as otherwise expressly provided herein, and except that those improvements which are the property of a public authority or utility company shall be maintained by such authority or utility company.

ARTICLE IX

COVENANTS FOR MAINTENANCE

Section 1. Lot Owner Maintenance Responsibilities. Each Lot Owner shall be responsible for the maintaining, repairing, and replacing of the Home and all other improvements

situated on his Lot in a clean, sanitary, neat, safe and orderly condition, including without limitation, all obligations for structural maintenance, repair or replacement of walls, windows and roofs, gutters, downspouts and skylights, patio screens, screen enclosures, doors, fixtures or equipment, or any equipment, facilities or other items whatsoever installed within or placed upon any Lot. It will also be the duty of each Owner to maintain in good repair any driveway servicing a single Lot, as well as the sidewalk, if any, located on or abutting his or her Lot. It shall also be the responsibility of Lot Owners to maintain and cut the grass located and for all maintenance and replacement of any landscaping installed on such Owner's Lot by the Owner and to replace grass, trees, and shrubs. The Owner shall not plant any trees or shrubbery on his Lot without first obtaining the prior written consent of the Association, unless the planting is the replacement of existing landscaping that has died or otherwise requires replacement.

Section 2. Association Maintenance Responsibilities. The Association shall be responsible for the maintenance of grass and landscaping on Common Areas and within any landscape buffer easement on the Common Areas or landscaping buffers originally installed by the Declarant or the Association on the Common Areas to comply with applicable codes and permits. The Association shall maintain, repair and replace all structures, hardscape and other improvements located on Common Area, except as otherwise provided herein. Such maintenance responsibility shall include maintenance of the Surface Water Management System.

Section 3. Irrigation. It shall be the duty of the Association to maintain the irrigation system for the Common Area at the Association's expense, the cost of which shall be an Operating Expense. The Association may, in its sole discretion, maintain the irrigation system located on each Lot, the cost of which (if undertaken) shall also be an Operating Expense. The Association is hereby granted an easement over and across each Owner's Lot for the purpose of repairing and maintaining the irrigation system. Owners and occupants of Homes shall not place any obstruction, fence, wall, tree or shrubbery over the irrigation system without the consent of the Board. Each Owner or Tenant, as applicable, shall be responsible for payment of any costs related to the repair and/or replacement necessary as a result of any damage done to the irrigation system, whether on such Owner's Lot or the Common Area, caused by such Owner, any member of such Owner's family, any guests, invitees, Tenants, contractors, workers or agents of Owner. Each Owner shall be responsible for the cost of any damage or erosion caused by the operation of the drainage system installed on his or her Lot. Repair of such damage or erosion may be performed by the Association. In the event the Association does not maintain the irrigation lines located on the Lots, it shall be the duty of each Owner to maintain any irrigation line located on and servicing his or her Lot at the Owners' expense.

ARTICLE X MORTGAGES

Section 1. Subordination of the Lien to Mortgages. The priority of the Association's lien and the obligation for payment of past due assessments or other sums due in relation to first mortgagees who obtain title as a result of foreclosure or deed in lieu of foreclosure shall be determined by the HOA Act, as amended from time to time. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof or relieve the prior Owner from any personal liability for any unpaid assessments occurring prior to said sale or transfer.

ARTICLE XI
WATER MANAGEMENT SYSTEMS

Section 1. General. The Association shall be responsible for the maintenance of SWMS in the Community. All SWMS within the Community, excluding those areas (if any) normally maintained by the County or another governmental agency, will be the ultimate responsibility of the Association, whose agents, employees, contractors and subcontractors may enter any portion of the SWMS and make whatever alterations, improvements or repairs that are deemed necessary to provide or restore property water management. NOTWITHSTANDING THE FOREGOING, THE ASSOCIATION, THE DECLARANT, OPERATOR AND BUILDERS SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR DRAINAGE PROBLEMS OF ANY TYPE WHATSOEVER OCCURRING AS A RESULT OF A MALFUNCTION OF A PORTION OF A DRAINAGE SYSTEM ON A LOT.

(a) Except as permitted by the Permit, no construction activities may be conducted relative to any portion of the SWMS without the prior written consent of the WMD. Prohibited activities include, but are not limited to: digging or excavation; depositing fill, debris or any other material or item; constructing or altering any water control structure; or any other construction to modify the SWMS. Construction and maintenance activities which are consistent with the design and permit conditions approved by the WMD in the Permit may be conducted without specific written approval from the WMD.

(b) No Owner or other person or entity shall unreasonably deny or prevent access to water management areas for maintenance, repair, or landscaping purposes by the Declarant, Operator, the Association, or any appropriate governmental agency that may reasonably require access. Nonexclusive easements therefor are hereby specifically reserved and created.

(c) No Lot, Common Area or any other portion of the Community shall be increased in size by filling in any retention/detention area that it abuts. No person shall fill, dike, rip-rap, block, divert or change the established retention/detention areas that have been or may be created without the prior written consent of the Association. No person other than the Declarant, a designated Operator or the Association may draw water for irrigation or other purposes from any retention/detention areas, nor is any boating, wading, or swimming in such retention/detention areas allowed.

(d) All SWMS, excluding those areas (if any) maintained by the County or another governmental agency will be the ultimate responsibility of the Association. The Association may enter any Lot, the Common Area or any other portion of the Community and make whatever alterations, improvements or repairs are deemed necessary to provide, maintain, or restore proper SWMS. The cost of such alterations, improvements or repairs shall be part of the Operating Expenses.

(e) The WMD has the right to take enforcement measures, including a civil action for injunction and/or penalties, against the Association to compel it to correct any outstanding problems with the SWMS.

(f) Any amendment of the Declaration affecting the SWMS or the operation and maintenance of the SWMS shall have the prior written approval of the WMD.

(g) If the Association ceases to exist, the SWMS shall be transferred to, accepted and maintained by an entity in accordance with Rule 62-330.310, Florida Administrative Code (as may be amended from time to time), and the Environmental Resource Permit Applicant's Handbook Volume 1, Section 12.3, and be approved by the WMD prior to such termination, dissolution, or liquidation.

(h) No Owner, Tenant or other person may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, buffer areas, and upland conservation areas described in the Permit and/or Plat or approved plans, unless prior approval is received from the WMD pursuant to environmental resource permitting.

(i) Owners, Tenants and other persons shall not remove native vegetation (including cattails) that becomes established within any retention/detention area in the Community. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp. Questions regarding authorized activities within the retention/detention areas shall be directed to the WMD.

Section 2. Proviso. Notwithstanding any other provision in this Declaration, no amendment of the Governing Documents by any person, and no termination or amendment of this Declaration, will be effective to change the Association's responsibilities for the SWMS, unless the amendment has been consented to in writing by the WMD. Any proposed amendment that would affect the SWMS must be submitted to the WMD for a determination of whether the amendment necessitates a modification of the Permit.

Section 3. Mitigation Area Monitoring. In the event the Community has onsite wetland mitigation (as defined in the regulations) that requires monitoring and maintenance by the Association, the Association shall perform all such wetland mitigation monitoring, if any, in accordance with all Permit conditions associated with such wetland mitigation, monitoring, and maintenance, to the extent the Association is required to perform such monitoring and maintenance.

Section 4. Conservation Areas. The Property, including Lots and Common Areas, may contain or be adjacent to wetlands, wetland mitigation or preservation areas, upland buffers, upland and conservation areas and drainage easements, which may be dedicated by Plat and/or protected by a conservation or preservation easement ("**Conservation Areas**"). Conservation and preservation easements on the Property may be established or dedicated on the Plat, by a separate instrument and/or this Declaration. The Conservation Areas must be permanently retained in a natural state, and may not be altered from their present state, except as may be specifically authorized in writing by the County, the WMD or any governmental agencies having jurisdiction. Owners, Tenants and other persons shall not remove native vegetation (including cattails) that becomes established within the Conservation Areas and the Conservation Areas may in no way be altered from their natural or permitted state. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp.

Section 5. Littoral Areas. The ponds and wetlands within the Community, if any, may contain littoral areas which are required by State and County regulations to be vegetated with native plants and maintained in perpetuity. Littoral areas aid in shoreline stabilization and nutrient uptake, and provide habitat for native animal species. The removal of littoral shelf vegetation (including cattails) from wet detention ponds is prohibited unless otherwise approved by the WMD. Removal includes dredging, the application of herbicide, cutting of and the introduction of grass carp. The Association shall be responsible for monitoring and maintenance, including removal, of exotic nuisance plant species which may be located within the SWMS in accordance with the Permit and any applicable County Code.

Section 6. Rights of Enforcement. The WMD, the Association, the Declarant and each Owner shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation, monitoring, repair and replacement of the SWMS. Notwithstanding the foregoing, the WMD has the right to take enforcement action, including a civil action for injunction and penalties, against the Association to compel it to correct any outstanding problems with the SWMS, comply with the mitigation or monitoring requirements of the Permit or other the responsibilities under the control of the Association.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Covenants Run With Land. All covenants, conditions, restrictions, reservations, easements, liens and charges contained in this Declaration shall constitute covenants running with the land, and all grantees, devisees, or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions of (a) this Declaration of Covenants, Restrictions, Conditions and Easements, the Articles, and except to the extent waived by Declarant or Operator, the provisions of the Bylaws of the Association. The restrictions and limitations of this Declaration are intended to be and shall be taken as consideration for any lease or deed of conveyance hereinafter made. The Association, by and through Declarant and/or any designated Operator during the Rental Period, shall be the entity or entities responsible for the operation and maintenance of the Common Area improvements.

Section 2. Enforcement. The Association, the Declarant and/or a designated Operator shall have the right during the Rental Period to enforce all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration by proceedings at law or in equity. After Turnover, the Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. In any such legal or equitable proceedings to enforce any restriction, condition, covenant, reservation, lien or charge now or hereafter imposed by these covenants, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs including at all appellate levels.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

Section 4. Duration. This Declaration is to take effect upon recordation and shall be binding upon the Association and all Owners and all persons and entities claiming title under and through them for thirty (30) years after the date this Declaration is recorded in the public records, after which time said covenants, as amended from time to time, shall automatically renew for successive ten (10) year periods, or if required by the law then in effect, be extended for successive terms in accordance with Florida Statutes, Chapters 720 and 712, as amended from time to time. In the event the Association ceases to exist, except as provided in Article Thirteen herein, any Owner may petition the Circuit Court for the appointment of a receiver to manage the affairs of the Association and all Common Area and the corresponding infrastructure will be dedicated or conveyed to a similar non-profit organization or entity to assure continued maintenance and operation. The Declaration may be terminated by an instrument signed by an officer of the Association on behalf of eighty percent (80%) of the total voting interests of all Members agreeing to terminate this Declaration has been recorded in the Public Records of the County.

Section 5. Dissolution of Association.

(a) The Association may be dissolved if three-fourths (3/4) of the votes cast at a duly held meeting of the Members of the Association vote in favor of dissolution, if permitted by the Declaration. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

(b) Generally. In the event the Association ceases to exist, the SWMS shall be conveyed to the WMD or an appropriate agency of local government and, if not accepted by such agency, the SWMS must be transferred to and accepted by an entity which complies with Rule 62-330.310, Florida Administrative Code, as may be amended from time to time, and the Environmental Resource Permit Applicant's Handbook Volume 1, Section 12.3, and be approved in writing by the WMD prior to such termination, dissolution, or liquidation.

(c) Applicability of Declaration after Dissolution. In the event of dissolution of the Association, the Community and each Lot therein shall continue to be subject to the provisions of this Declaration, including, without limitation, the provisions respecting Assessments specified in this Declaration. Each Owner shall continue to be personally obligated to the successors or assigns of the Association for Assessments to the extent that Assessments are required to enable the successors or assigns of the Association to properly maintain, operate and preserve the Common Areas (if any). The provisions of this Section only shall apply with regard to the maintenance, operation, and preservation of those portions of the Community that had been Common Areas and continue to be so used for the common use and enjoyment of the Declarant, Builders and other Owners.

Section 6. Amendment. Prior to Turnover, Declarant reserves the right to amend this Declaration without the consent of the Owners or any other person or entity. Such amendments shall not require the consent of any Institutional First Mortgagee. No provisions related to the Declarant's rights may be amended without the consent of the Declarant. No provisions relating

to the Builders' or designated Operator's rights may be amended without the consent of the Builder(s) or Operator affected by such proposed amendment. Amendments made by the Declarant in accordance herewith, shall become effective when executed by Declarant and recorded in the Public Records of the County. After Turnover, the covenants and restrictions of this Declaration may be amended by an affirmative vote of not less than thirty (30%) percent of the Owners at a duly noticed meeting for the purpose of voting on such amendment. Notwithstanding anything in this Declaration to the contrary, any amendment to the Declaration, Articles or Bylaws affecting any aspect of the Surface Water Management System must receive prior written approval of the WMD and Association. Any amendments must be properly recorded in the Public Records of the County.

Section 7. Remedies for Violation – Fines and Suspensions. In the event of an alleged violation of the Declaration, the Articles, the Bylaws or the Rules adopted hereunder, the Board shall have the right, in accordance with Section 720.305, Florida Statutes, to (1) levy a fine against the Owner who allegedly, or whose family member, guest, and/or Tenant allegedly committed such violation, (2) suspend or condition the right of a Member, his family, guest and/or Tenant (the “Respondent”) to the use of the Common Areas (except for the portions thereof which are necessary as a means of ingress and egress) or (3) suspend or condition said Member's right to vote on Association matters.

Section 8. Effect of Waiver of Violation. No waiver of a breach of or violation of any of the terms, provisions and covenants in this Declaration, or in the Articles or Bylaws, shall be construed to be a waiver of any succeeding breach or violation of the same term, provision or covenant of this Declaration, or the Articles or Bylaws.

Section 9. Florida Law and Venue. This Declaration shall be governed by the laws of the State of Florida and exclusive venue for any action for its enforcement or interpretation shall be in the County.

Section 10. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose.

Section 11. Grammatical Construction. Wherever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the singular shall include the plural, and the plural shall include the singular.

Section 12. Conflicts. In the event of any conflict between the provisions of this Declaration, the Articles and the Bylaws, the provisions of this Declaration, the Articles and the Bylaws shall control in that order.

Section 13. CABLE TELEVISION, INTERNET AND HOME SECURITY MONITORING SERVICES. THE ASSOCIATION IS NOT OBLIGATED TO BUT MAY ENTER INTO AN AGREEMENT WITH A CABLE TELEVISION COMPANY, INTERNET SERVICE PROVIDER AND/OR SECURITY MONITORING COMPANY PURSUANT TO WHICH ALL OF THE HOMES WILL BE PROVIDED CABLE TELEVISION AND/OR INTERNET SERVICE AND/OR SECURITY MONITORING SERVICES WHICH WILL BE CHARGED AS AN OPERATING EXPENSE. IN THE EVENT SECURITY MONITORING IS

PROVIDED TO THE OWNERS BY THE ASSOCIATION, DECLARANT, BUILDERS AND THE ASSOCIATION WILL HAVE NO LIABILITY OF ANY KIND OR NATURE DUE TO THE FAILURE OF THE SECURITY MONITORING COMPANY TO DETECT OR REACT TO FIRE, UNAUTHORIZED ENTRY, OR OTHER SECURITY PROBLEM IN ANY HOME.

Section 14. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BYLAWS, ANY RULES OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION (COLLECTIVELY, THE "**ASSOCIATION DOCUMENTS**"), THE ASSOCIATION, DECLARANT AND ANY DESIGNATED OPERATOR SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER BE A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT, OR USER OF ANY PORTION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, TENANTS, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(a) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS, REGULATIONS, POLICIES OR OTHER RULES OF THE UNITED STATES, STATE OF FLORIDA, THE COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES, NOTWITHSTANDING THE FACT THAT THE ASSOCIATION MAY ADOPT RULES, POLICIES AND/OR REGULATIONS WHICH PROHIBIT OR REQUIRE SIMILAR ACTIONS AS SUCH LAWS, REGULATIONS, POLICIES OR OTHER RULES; AND

(b) THE ASSOCIATION MAY ADOPT POLICIES, RULES AND/OR REGULATIONS WHICH RELATE TO THE HEALTH, SAFETY AND/OR WELFARE OF THE COMMUNITY OR THAT ARE REQUIRED BY A GOVERNING JURISDICTION. ANY SUCH POLICY, RULE OR REGULATION OR ANY AMENDMENT TO THIS DECLARATION, THE ARTICLES OR BYLAWS RELATING OR WHICH IS HELD TO RELATE TO THE HEALTH SAFETY AND/OR WELFARE OF THE COMMUNITY SHALL BE INTERPRETED AND ENFORCED FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTY AND THE VALUE THEREOF AND NOT AS A GUARANTEE OF PROTECTION FOR THE OWNERS, TENANTS, OCCUPANTS AND GUESTS AGAINST ANY ILLNESS, DISEASE, BODILY HARM, DEATH OR OTHER HARM.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS HOME) AND EACH OTHER PERSON, INCLUDING BUT NOT LIMITED TO TENANTS, HAVING AN INTEREST IN OR LIEN UPON, OR MAKING USE OF ANY PORTION OF THE PROPERTY (BY VIRTUE OF ACCEPTING SUCH INTEREST OF MAKING SUCH USES) SHALL BE BOUND BY THIS PROVISION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED AND RELEASED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE DECLARANT OR ASSOCIATION HAS BEEN DISCLAIMED IN THIS PROVISION.

AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD OF DIRECTORS MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. THE PROVISIONS OF THIS ARTICLE SHALL ALSO INURE TO THE BENEFIT OF THE DECLARANT, OPERATOR, BUILDERS AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, CONTRACTORS, MEMBERS AND AFFILIATES, WHICH SHALL BE FULLY PROTECTED HEREBY.

Section 15. ALL OWNERS, TENANTS, OCCUPANTS AND USERS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALL TYPES OF WILDLIFE, INCLUDING ALLIGATORS, SNAKES, PANTHERS, BEARS AND OTHER ANIMALS, MAY LIVE, MIGRATE, CREATE HABITATS OR ENTER INTO WATER BODIES AND SURROUNDING PROPERTY AND MAY POSE A HEALTH AND SAFETY THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE. EACH OWNER, BY VIRTUE OF THEIR ACCEPTANCE OF A DEED TO A LOT, AGREES TO REVIEW AND COMPLY WITH THE WILDLIFE MANAGEMENT PLAN FOR THE COMMUNITY, IF ANY AND TO CAUSE ALL OCCUPANTS OF THEIR HOME TO COMPLY WITH SUCH WILDLIFE MANAGEMENT PLAN. NO PERSONS SHALL SWIM IN ANY WATER BODIES WITHIN THE COMMUNITY NOT SPECIFICALLY DESIGNATED FOR SWIMMING AND NO PERSONS IN THE COMMUNITY SHALL FEED ANY WILDLIFE IN OR AROUND THE COMMUNITY.

Section 16. Recreational Facilities.

(a) General Restrictions. Each Owner, its guests, invitees, Tenants, and other persons entitled to use the recreational facilities and other Common Areas within the Community ("Facility Users") shall comply with following general restrictions:

(1) Minors. Minors are permitted to use the recreational facilities; provided, however, parents are responsible for the actions and safety of such minors and any damages caused by such minors. The Association may adopt reasonable regulations and restrictions from time to time and for safety reasons governing minors' use of the recreational facilities.

(2) Responsibility for Personal Property and Persons. Each Facility User assumes sole responsibility for the health, safety and welfare of Facility User, and the personal property of all of the foregoing, and each Facility User shall not allow any damage the recreational facilities or other Common Area, or interfere with the rights of others hereunder. Neither Declarant, nor a designated Operator, nor Builders, nor the Association shall be responsible for any loss or damage to any private property used, placed or stored on the recreational facilities. Further, any person entering the recreational facilities assumes all risk of loss with respect to his or her equipment, jewelry or other possessions, including, without limitation, wallets, books and clothing left in the recreational facilities.

(3) Activities. Any Owner, Tenant, guest, invitee or other person who, in any manner, makes use of the recreational facilities, or who engages in any contest, game, function, exercise, competition or other activity operated, organized, arranged or sponsored either on or off the recreational facilities, shall do so at their own risk. Every Facility User shall be liable for any property damage and/or personal injury at the recreational facilities, caused by such Facility User.

(b) Indemnification. By the use of the Recreational Facilities and other Common Areas, each Facility User agrees to indemnify and hold harmless the Declarant, Operator, Builders and the Association, their officers, partners, agents, employees, affiliates, directors and attorneys (collectively, "**Indemnified Parties**") against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever (collectively, "**Losses**") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to use of the recreational facilities or other Common Areas by such Facility User and/or from any act or omission of the any of the Indemnified Parties. Losses shall include the deductible payable under any of the Association's insurance policies.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Declarant has executed this Declaration, this 30th day of November, 2021.

Signed, sealed and delivered
in the presence of:

Rebecca Sner
Print Name: REBECCA SNER

MARK BRUMFIELD
Print Name: MARK BRUMFIELD

D.R. HORTON, INC. a Delaware corporation

By: [Signature]
Name: Justin Robbins
Title: Vice President

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization this 1 day of DEC, 2021, by Justin Robbins, as Vice President of D.R. Horton, Inc., a Delaware corporation, on behalf of the corporation, and he is ☒ personally known to me or [] has produced _____ as identification.

[SEAL]

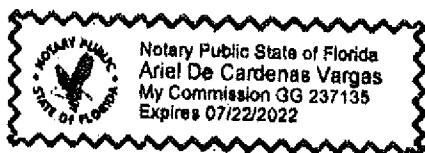
[Signature]
Signature of Notary Public

Ariel De Cardenas Vargas
Notary Public Name (Typed or Printed)

Notary Public, State of Florida at Large

Commission No. 06 237135

My commission expires: 7/22/22



JOINDER

Soluna Homeowners' Association, Inc., a not-for-profit Florida corporation whose mailing address is 10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Myers, Florida 33966, hereby approves and joins in the Declaration of Covenants, Conditions and Restrictions of Soluna and the Exhibits attached thereto and agrees to be bound by the terms thereof and will comply with and perform the terms and conditions of the Declaration.

In Witness Whereof, Soluna Homeowners' Association, Inc. has executed this Joinder on this 30th day of November, 2021.

Signed, sealed and delivered
in the presence of:

Soluna Homeowners' Association, Inc., a Florida
not-for-profit corporation

Rebecca Sarver

Print Name: REBECCA SARVER

By: [Signature]

Landon Thomas, President

Mark Brumfield

Print Name: MARK BRUMFIELD

STATE OF FLORIDA)

: SS.

COUNTY OF LEE)

The foregoing instruction was acknowledged before me by means of ☐ physical presence or ☐ online notarization this 1 day of DEC, 2021, by LANDON THOMAS as President of Soluna Homeowners' Association, Inc., a not-for-profit Florida corporation, on behalf of said Corporation. He/She is ☒ personally known to me or ☐ has produced _____ as identification.

[SEAL]

[Signature]
Signature of Notary Public

Ariel De Cardenas
Notary Public Name (Typed or Printed)

Notary Public, State of Florida at Large

Commission No.: 66 237135

My commission expires: 7/22/22

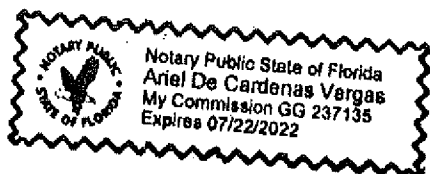


EXHIBIT "A"

PROPERTY

The North Half (N 1/2) of the Northeast quarter (NE 1/4) of the Northeast quarter (NE 1/4) of Section 35, Township 48 South, Range 26 East, Collier County, Florida; Subject to an easement for the public road right-of-way over and across the North 30 feet thereof and the East 30 feet thereof.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

A tract of parcel of land situated in the State of Florida, County of Collier, being a portion of the North One Half of the Northeast Quarter of the Northeast Quarter of Section 35, Township 48 South, Range 26 East, and being more particularly bounded and described as follows:

Beginning at the Northeast corner of Section 35, Township 48 South, Range 26 East, Collier County, Florida;

Thence S.02°16'57"E., along the East line of said Section 35, for 668.96 feet to a point of the South line of the North one half of the Northeast Quarter of the Northeast Quarter of said Section 35; thence S.89°58'03"W., along said South line, for 35.03 feet to a point on a line lying 35 feet Westerly of and parallel to said East line; Thence N.02°16'57"W., along said parallel line, for 388.75 feet; Thence N10°08'28"W., for 182.84 feet; Thence N.41°55'27"W., for 47.02 feet; Thence N.80°37'49"W., for 153.16 feet to a point on a line lying 40 feet Southerly of and parallel to the North line of said Section 35; Thence S.89°58'31"W., along said parallel line, for 718.67 feet; Thence N.73°11'14"W., for 79.40 feet; Thence S.89°58'31"W., for 57.22 feet; Thence S.73°09'14"W., for 44.92 feet; Thence S.86°54'42"W., for 187.12 feet to a point on the West line of the North one half of the Northeast quarter of the Northeast quarter of said Section 35; Thence N.02°16'03"W., along said West line, for 40.03 feet to a point on the North line of said Section 35; Thence N.89°58'31"E., along said North line, for 1321.91 feet to the point of beginning of the herein described parcel.

EXHIBIT "B"

ARTICLES OF INCORPORATION

NOT A
CERTIFIED
COPY

08/17/2021 TUE 8:19 FAX

001/009

8/17/2021

Division of Corporations

Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

(((H21000309004 3)))



H210003090043ABCT

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

To: Division of Corporations
Fax Number : (850)617-6381

From: Account Name : HAND ARENDALL HARRISON SALE LLC
Account Number : 120190000128
Phone : (850)769-3434
Fax Number : (850)769-6121

Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.

Email Address: C.VORREITER@HANDFIRM.COMFLORIDA PROFIT/NON PROFIT CORPORATION
Soluna Homeowners' Association, Inc.

Certificate of Status	0
Certified Copy	0
Page Count	08
Estimated Charge	\$70.00

AUG 18 2021

T. SCOTT

08/17/2021 TUE 9:19 FAX

0002/009

**ARTICLES OF INCORPORATION FOR
Soluna Homeowners' Association, Inc.
(a corporation not-for-profit)**

The undersigned, acting as Incorporator(s) of a corporation pursuant to Chapter 617, Florida Statutes, adopt(s) the following Articles of Incorporation:

ARTICLE I - NAME

The name of the corporation shall be Soluna Homeowners' Association, Inc., a Florida corporation not-for-profit (the "Association").

ARTICLE II - DEFINITIONS

Each term used herein, except as otherwise defined herein, is defined in the Declaration of Covenants, Conditions, and Restrictions of Soluna (the "Declaration") recorded, or to be recorded, among the Public Records of Collier County, Florida by D.R. Horton, Inc., a Delaware corporation (the "Declarant"), and shall have the same meaning or definition ascribed thereto in the Declaration.

ARTICLE III - PRINCIPAL PLACE OF BUSINESS AND MAILING ADDRESS

The principal place of business and mailing address of the Association shall be 10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Meyers, Florida 33966.

ARTICLE IV- PURPOSE(S)

The Association is organized as a corporation not-for-profit under Chapter 617 of the laws of the State of Florida, subject to the extent applicable, to Chapter 720 of the laws of the State of Florida. The specific purposes for which the corporation is organized are:

ARTICLE V- GENERAL POWERS

The Association shall have all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the Bylaws or the Declaration including, without limitation, the following:

Section 1. To hold funds solely and exclusively for the benefit of the Members for the purposes set forth in these Articles of Incorporation.

Section 2. To promulgate and enforce rules, regulations, bylaws, covenants, restrictions and agreements to effectuate the purposes for which the Association is organized.

Section 3. To delegate power or powers where such is deemed in the interest of the Association.

08/17/2021 TUE 9:19 FAX

003/009

Section 4. To levy Assessments on Lots, collect such Assessments and fines from Lot Owner Members and tenants, as applicable, and to use the proceeds thereof in the exercise of its powers and duties.

Section 5. To pay taxes and other charges, if any, on or against the Association Property, excepting Lots not owned by the Association, and the Common Area.

Section 6. To have all express powers conferred upon the Association by the Declaration, Bylaws and Chapter 720, Florida Statutes, and to have all powers conferred upon a corporation by the laws of the State of Florida, including Chapter 617, Florida Statutes, except as prohibited herein.

Section 7. To own and convey property.

Section 8. To sue and be sued, and to enforce by legal means the provisions of the HOA Act, other applicable laws, the Declaration, these Articles, the Bylaws, the Rules and Regulations, and the policies of the Association.

Section 9. To adopt, alter and amend or repeal such Bylaws as may be necessary or desirable for the proper management of the affairs of the Association, provided, however, such Bylaws may not be inconsistent with or contrary to any provisions of the Declaration.

Section 10. To operate and maintain the Surface Water Management System, including all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplains compensation areas, wetlands and any associated buffers and wetland mitigation areas, preserve areas and conservation easements, as applicable and required by the Permit, and to contract for services to provide for such operation and maintenance, with the power to accept future phases into the Association that will utilize the Surface Water Management System facilities.

Section 11. To contract for services for the operation, maintenance, and management of Common Areas and Property and all other property dedicated to or maintained by the Association.

ARTICLE VI- MANNER OF ELECTION OF DIRECTORS

Directors shall be elected or appointed in accordance with the provisions of the Bylaws of the Association.

ARTICLE VII - MEMBERS

Section 1. Every Owner of a Lot shall be a Member of the Association and subject the terms and conditions of the Declaration. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment.

08/17/2021 TUE 9:20 FAX

004/009

ARTICLE VIII- DIRECTORS

The Board of Directors of the Corporation shall be comprised of at least three (3) directors. The members of the Board of Directors and their street addresses are:

Landon Thomas	10541 Ben C. Pratt Six Mile Cypress Parkway Suite 100 Fort Meyers, Florida 33966
Oliver Bacovsky	10541 Ben C. Pratt Six Mile Cypress Parkway Suite 100 Fort Meyers, Florida 33966
Rebecca Sarver	10541 Ben C. Pratt Six Mile Cypress Parkway Suite 100 Fort Meyers, Florida 33966

Those directors appointed to the Board of Directors by Declarant or its designated successor or assigns, need not be Members of the Association and need not be residents of the State of Florida. All Directors appointed by the Declarant shall serve at the pleasure of the Declarant, and may be removed from office, and a successor Director may be appointed at any time by the Declarant.

All of the duties and powers of the Association existing under the HOA Act, the Declaration, these Articles, the Bylaws and the Rules and Regulations (all as amended from time to time) shall be exercised by the Board of Directors or such committees to which authority is given by the Board or pursuant to the HOA Act or the Governing Documents of the Association, subject only to approval by Members when such approval is specifically required.

At the first annual election to the Board of Directors where Directors are elected by the Members, the term of office of the elected Director receiving the highest plurality of votes shall be established at two (2) years, with the other elected Directors to serve for a term of one (1) year. Elections shall be by plurality votes. All Directors, other than those appointed by Declarant, shall hold office until the election of new directors at the next annual meeting or resignation of said Director. Each year thereafter, as many Directors shall be elected and appointed, as the case may be, as there are regular terms of office of Directors expiring at such time, and the term of the Director so elected or appointed at each annual election shall be for two (2) years expiring at the second annual election following their election, and thereafter until their successors are duly elected and qualified, or until removed from office with or without cause by the affirmative vote of a majority of the Members which elected or appointed them.

ARTICLE IX - OFFICERS

The Officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, and such other officers as the Board of Directors may from time to time, by resolution, create. Any two or more offices may be held by the same person except the offices of

08/17/2021 TUE 9:20 FAX

005/009

President and Secretary. Officers shall be elected for one (1) year terms in accordance with the procedures set forth in the Bylaws. The names of the Officers who are to manage the affairs of the Association until the next annual meeting of the Board of Directors and until their successors are duly elected and qualified are:

President:	Landon Thomas
Vice President:	Oliver Bacovsky
Secretary/ Treasurer:	Rebecca Sarver

ARTICLE X - REGISTERED AGENT, MAILING ADDRESS AND STREET ADDRESS

The street and mailing address of the Corporation's registered office is 10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Meyers, Florida 33966, and the Registered Agent is D.R. Horton, Inc.

ARTICLE XI - CORPORATE EXISTENCE

The Association shall have perpetual existence. If the Association is dissolved, the control or right of access to the property containing the Surface Water Management System Facilities and other dedicated property and related infrastructure shall be transferred to, accepted and maintained by an entity in accordance with Rule 62-330.310, Florida Administrative Code, and the Environmental Resource Permit Applicant's Handbook Volume 1, Section 12.3, as such may be amended from time to time, and be approved by the WMD prior to such termination, dissolution, or liquidation.

ARTICLE XII - BYLAWS

The Board of Directors shall adopt Bylaws consistent with these Articles. The Bylaws for the Association will be recorded in the Public Records as originally enacted by Declarant, and as thereafter amended from time to time in accordance with the provisions for amendment set forth therein.

ARTICLE XIII - AMENDMENTS TO ARTICLES OF INCORPORATION

Amendment of these Articles requires the approval of at least two-thirds (2/3) of the membership votes. Notwithstanding the foregoing; (a) for so long as the Declarant has the right to appoint the entire Board of Directors of the Association, the Declarant or its successor or assign shall be permitted to unilaterally amend these Articles; and (b) for so long as Declarant owns any portion of the Property, no amendment of these Articles shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the Declarant, unless the Declarant joins in the execution of the amendment.

09/17/2021 TUE 9:21 FAX

006/009

Such amendments shall be subject to the prior approval required by any appropriate governmental agency. Notwithstanding anything to the contrary herein contained, amendments for correction of scrivener's errors may be made by the Board of Directors of the Association alone without the need of consent of any other person. Notwithstanding the foregoing, matters stated herein to be or which are in fact governed by the Declaration may not be amended except as provided in such Declaration. Additionally, the provisions which are governed by the By-laws of this Association may not be amended except as provided in the Bylaws.

Any amendment to these Articles that would alter the Surface Water Management System Facilities, conservation areas or any water management areas of the Common Areas must have the prior approval of the WMD. Any such proposed amendments must be submitted to the WMD for a determination of whether the amendment necessitates a modification to the WMD Permit. If the proposed amendment necessitates a modification to the WMD Permit, the modification to the WMD Permit must be approved by the WMD prior to the amendment to these Articles.

ARTICLE XIV- INDEMNIFICATION OF OFFICERS AND DIRECTORS

Section 1. Indemnity. The Association shall indemnify any Officer, Director, 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/she is or was a Director, Officer, or Committee Member of the Association, against expenses (including attorney's fees and appellate attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him/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/she did not act in good faith or in a manner he/she reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he/she had reasonable cause to believe his conduct was unlawful, and (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 failed to act in good faith and in a manner which he/she reasonably believed 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 Committee Members as permitted by Florida law. 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.

Section 2. Defense. To the extent that a Director, Officer, 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 1 above, or in defense of any claim, issue, or matter therein, he/she shall be indemnified against expenses (including attorney's fees and appellate attorney's fees) actually and reasonably incurred by him/her in connection therewith.

Section 3. Advances. Reasonable expenses incurred in defending a civil or

08/17/2021 TUE 9:21 FAX

0007/009

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, or Committee Member to repay such amount if it shall ultimately be determined that he/she is not entitled to be indemnified by the Association as authorized by this Article XIV.

Section 4. Miscellaneous. The indemnification provided by this Article XIV 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.

Section 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 and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the duty to indemnify him against such liability under the provisions of this Article.

ARTICLE XV-DISSOLUTION

The Association may be dissolved if three-fourths (3/4) of the votes cast at a duly held meeting of the Members of the Association vote in favor of dissolution, if permitted by the Declaration. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE XVI - INCORPORATOR

The name and address of the Incorporator is:

Name: D.R. HORTON, INC.
Address: 10541 Ben C. Pratt Six Mile Cypress Parkway
Suite 100
Fort Meyers, Florida 33966

08/17/2021 TUE 9:22 FAX

008/009

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation this
12th day of August, 2021.

D.R. HORTON, INC., a Delaware
corporation

By: _____

Name: Justin RobbinsIts: Vice President

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me by means of ☒ physical
presence or ☐ online notarization, this 12 day of August, 2021, by Justin Robbins, as Vice
President of D.R. HORTON, INC., a Delaware corporation, on behalf of the company. He is
personally known to me.

Ashley Koza
Notary Public Signature

Ashley Koza
Notary Name [Printed/Typed/Handwritten]
State of Florida
Commission Expires: 12/11/22

(NOTARY SEAL)



09/17/2021 CUE 9r22 FAX

0009/009

REGISTERED AGENT

The undersigned hereby accepts appointment as Registered Agent of Soluna Homeowners' Association, Inc., a Florida corporation not-for-profit this 12th day of August, 2021.

D.R. HORTON, INC., a Delaware corporation

By:

Name: Justin Robbins

Its: Vice President

EXHIBIT "C"

BYLAWS

NOT A
CERTIFIED
COPY

**BYLAWS OF
SOLUNA HOMEOWNERS' ASSOCIATION, INC.**

A corporation not-for-profit organized
under the laws of the State of Florida

1. Identity. These are the Bylaws of Soluna Homeowners' Association, Inc., (the "Association"), a corporation not for profit incorporated under the laws of the State of Florida and organized for the purpose of administering the Community known as Soluna located in Collier County, Florida (the "Property").
 - 1.1 Principal Office. The principal office of the Association shall be at 10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Myers, Florida 33966, or at such other place as may be subsequently designated by the Board of Directors. All books and records of the Association shall be kept at its principal office.
 - 1.2 Fiscal Year. The fiscal year of the Association shall be the calendar year.
 - 1.3 Seal. The seal of the Association shall bear the name of the corporation, the word "Florida," the words "Corporation Not for Profit," and the year of incorporation.
2. Definitions. For convenience, these Bylaws shall be referred to as the "Bylaws" and the Articles of Incorporation of the Association as the "Articles." The other terms used in these Bylaws shall have the same definition and meaning as those set forth in that certain Declaration of Covenants, Conditions and Restrictions of Soluna (the "Declaration"), unless herein provided to the contrary, or unless the context otherwise requires.
3. Waiver During Rental Period. Notwithstanding any other provision herein, during the Rental Period, as defined in the Declaration, the provisions set forth herein and the HOA Act relating to (1) meetings, (2) notices, (3) quorum, (4) voting, (5) official records (except as to records to be made available to Tenants under the HOA Act), (6) budgets, and otherwise, excepting any procedure or act which the Association is required by law to perform for the benefit of any Owner or person other than Declarant, may be waived by Declarant, with the consent of any Operator.
4. Members. The members of the Association ("Members") shall be as specified in the Articles and Declaration.
 - 4.1 Meetings. Except as provided in Section 3.2 herein, following termination of the Rental Period, Members' meetings shall be noticed and conducted in accordance with the HOA Act.
 - 4.2 Action Without A Members' Meeting. Anything to the contrary herein notwithstanding, during the Rental Period, any action herein required to be taken at any meeting of the Directors, may be taken by Declarant, with the consent of the Operator, as applicable, without a meeting, without prior notice and without a vote.

5. Directors

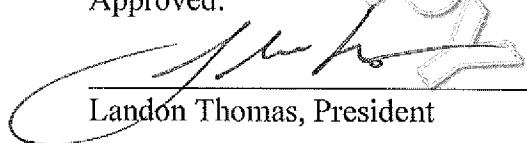
- 5.1 Membership. The affairs of the Association shall be managed and governed by a Board of Directors (the "Board") of not less than three (3) Directors. During the Rental Period, all Directors shall be appointed by the Declarant and such Directors may make decisions by agreement of a majority or as otherwise directed and authorized by Declarant. Directors appointed by Declarant need not be Owners and need not reside in the state of Florida.
- 5.2 Declarant Control Period; Turnover. Prior to Turnover and at such time as 50% of the Lots ultimately planned for the Community are owned by a person or entity other than a Declarant, Operator or a Builder, the Members other than the Declarant are entitled to elect one (1) member of the Board of Directors (a "Pre-Turnover Director"), provided such Members exercise this right.
- 5.3 Until a majority of the Directors are elected by Members other than the Declarant, no Directors named by the Declarant shall be subject to removal by Members other than the Declarant. Directors appointed by the Declarant and Directors replacing them may be removed and replaced by the Declarant without the necessity of any meeting.
- 5.4 Election of Directors. The election of Directors to fill vacancies at such time when Declarant is no longer authorized to appoint Directors, shall be conducted in accordance with Chapter 720.306, Florida Statutes, and by secret ballot in the manner described in the Florida Condominium Act, Chapter 718, Florida Statutes.
- 5.5 Term. Except as provided herein to the contrary, the term of each elected Director's service shall extend until the annual meeting of the Members two (2) years from the date of such Director's election and subsequently until his/her successor is duly elected and qualified, or until he/she is removed in the manner elsewhere provided.
- 5.6 Officers/Organizational Meeting. Officers shall be appointed by Declarant for so long as Declarant has the right to appoint a majority of the Board. Thereafter, a President, Vice-President, Secretary and Treasurer shall be elected by a majority of the Board at an organizational meeting following the meeting at which there was an election for one or more Board vacancies. The organizational meeting of newly-elected or appointed members of the Board shall be held immediately following or within ten (10) days of their election or appointment at such place and time as shall be fixed by the Directors at the meeting at which they were elected or appointed, and no further notice to or by the Board of the organizational meeting shall be necessary.
- 5.7 Directors' Meetings. Except as provided in Section 4.7 herein, following termination of the Rental Period, directors' meetings shall be noticed and conducted in accordance with the HOA Act.
- 5.8 Action Without a Directors' Meeting. Anything to the contrary herein notwithstanding, during the Rental Period, any action herein required to be taken at any meeting of the Directors, may be taken by Declarant, with the consent of the Operator, as applicable, without a meeting, without prior notice and without a vote.

6. Amendments. These Bylaws may be amended in the following manner:
 - 6.1 During the Rental Period and prior to Turnover, Declarant shall have the unilateral right to amend these Bylaws without the consent of other Owners or mortgagees.
 - 6.2 Following Turnover, these Bylaws may be amended by majority vote of the voting interests present at a Members' meeting in person or by proxy where a quorum has been established.
7. Rules and Regulations. The Board or Declarant (if during the Rental Period) may, from time to time, adopt, modify, amend or add to reasonable rules and regulations ("Rules") concerning the use and operation of the Property.
8. 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. If any portion hereof shall be found by competent judicial authority to be unenforceable, then only that portion shall be deemed deleted and the remainder shall be given its nearest permissible meaning and effect.
9. 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 provision hereof.
10. Conflict. In the event there should be found any irreconcilable conflict among or between the Declaration, the Articles and/or these Bylaws and in the absence of any express language indicating which document controls the particular subject matter, then the provisions of the Declaration shall be paramount, the Articles next paramount and these Bylaws subordinate.

The foregoing was adopted as the Bylaws of SOLUNA HOMEOWNERS' ASSOCIATION, INC., a corporation not for profit under the laws of the State of Florida, at its first meeting of the Board of Directors on the 30th day of November, 2021.

**SOLUNA HOMEOWNERS'
ASSOCIATION, INC.**

Approved:


Landon Thomas, President

Attest:

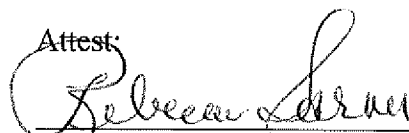

Rebecca Sarver, Secretary

EXHIBIT "D"

PERMIT

NOT A
CERTIFIED
COPY



South Florida Water Management District
Individual Environmental Resource Permit No. 11-104971-P
Date Issued: September 2, 2021

Permittee: DR Horton, Inc
10541 Ben C Pratt 6 Mile Cypress Pkwy
Fort Myers, FL 76011

Project: Soluna

Application No. 210322-5660

Location: Collier County, See Exhibit 1

Your application for an Individual Environmental Resource Permit is approved. This action is taken based on Chapter 373, Part IV, of Florida Statutes (F.S.) and the rules in Chapter 62-330, Florida Administrative Code (F.A.C.). Unless otherwise stated, this permit constitutes certification of compliance with state water quality standards under section 401 of the Clean Water Act, 33 U.S.C. 1341, and a finding of consistency with the Florida Coastal Management Program. Please read this entire agency action thoroughly and understand its contents.

This permit is subject to:

- Not receiving a filed request for a Chapter 120, F.S., administrative hearing.
- The attached General Conditions for Environmental Resource Permits.
- The attached Special Conditions.
- All referenced Exhibits.

All documents are available online through the District's ePermitting site at www.sfwmd.gov/ePermitting.

If you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights", we will assume that you concur with the District's action.

The District does not publish notices of action. If you wish to limit the time within which a person may request an administrative hearing regarding this action, you are encouraged to publish, at your own expense, a notice of agency action in the legal advertisement section of a newspaper of general circulation in the county or counties where the activity will occur. Legal requirements and instructions for publishing a notice of agency action, as well as a noticing format that can be used, are available upon request. If you publish a notice of agency action, please send a copy of the affidavit of publication provided by the newspaper to the District's West Palm Beach office for retention in this file.

If you have any questions regarding your permit or need any other information, please call us at 1-800-432-2045 or email epermits@sfwmd.gov.

Melissa M. Roberts, P.E.
Administrator, Environmental Resource Bureau

**South Florida Water Management District
Individual Environmental Resource Permit No. 11-104971-P**

Date Issued: September 2, 2021 **Expiration Date:** September 2, 2026

Project Name: Soluna

Permittee: DR Horton, Inc
10541 Ben C Pratt 6 Mile Cypress Pkwy
Fort Myers, FL 76011

Operating Entity: DR Horton, Inc
10541 Ben C Pratt 6 Mile Cypress Pkwy
Fort Myers, FL 76011

Location: Collier County

Permit Acres: 18.50 acres

Project Land Use: Residential

Special Drainage District: N/A

Water Body Classification: CLASS III

FDEP Water Body ID: 3278S

Conservation Easement to District: No

Sovereign Submerged Lands: No

Project Summary

This Environmental Resource Permit authorizes Construction and Operation of a stormwater management (SWM) system serving 18.50 acres of residential development known as Soluna.

This permit authorizes a multi-family residential subdivision with associated infrastructure, roadways, and SWM system. Engineering plans and details are included as Exhibit 2.0.

Issuance of this permit constitutes certification of compliance with state water quality standards in accordance with Rule 62-330.062, F.A.C.

Site Description

The site is located on the southwest corner of the intersection of Tree Farm Road and Massey Street, just east of Collier Blvd. in Collier County.

The site contains transmission towers that are surrounded by a six feet tall chain link fence topped with barb wire. There are wetlands within the project boundaries. For information on wetland and surface water impacts, please see the Wetlands and Other Surface Water section of this permit.

Ownership, Operation and Maintenance

DR Horton, Inc, submitted a purchase agreement as demonstration of real property interest for the project area. Prior to commencement of construction, documentation of ownership must be submitted to the Agency. If the property is conveyed to an entity other than the permittee, a permit transfer will be required.

In addition, prior to commencement of construction, documentation of FPL easement abandonment must be provided to the District's compliance staff.

Perpetual operation and maintenance of the SWM system and the preserve areas will be the responsibility of DR Horton, Inc. Upon conveyance or division of ownership or control of the property or the system, the permittee must notify the Agency in writing within 30 days, and the new owner must request transfer of the permit.

Engineering Evaluation:

Land Use

The land use category labeled "other" in the offsite basin refers to flood plain compensation area.

Water Quality

The project is located within a watershed identified by the Florida Department of Environmental Protection as impaired; therefore, the design includes a site-specific pollutant loading analysis and an additional 50% water quality treatment volume above the amounts required pursuant to Section 4.2.1, Volume II, as reasonable assurances that the projects discharge will not cause or contribute to violations of State water quality standards. The project provides 1.74 ac-ft of water quality treatment.

The project includes implementation of an Erosion Control Plan, (Exhibit No. 2.0), a Construction Pollution Prevention Plan (Exhibit No. 2.1), and an Urban Stormwater Management Program (Exhibit No. 2.2) as additional reasonable assurance of compliance with water quality criteria during construction and operation.

Discharge

As found in the Water Quantity Data Table, the project discharge is within the allowable limit for the area.

Parking Lot Design

As found in the Water Quantity Data Table, the minimum parking lot elevations have been set at or above the calculated design storm flood elevation.

Road Design

As found in the Water Quantity Data Table, the minimum road center line elevations have been set at or above the calculated design storm flood elevation.

Perimeter Berm

As found in the Water Quantity Data Table, the minimum perimeter berm elevations have been set at or above the calculated design storm flood elevation.

Finished Floors

As found in the Water Quantity Data Table, the minimum finished floor elevations have been set at or above the calculated design storm flood elevation.

Flood Plain/Compensating Storage

The permittee submitted calculations demonstrating that the project will meet the compensating storage requirements of the basin.

Certification, Operation, and Maintenance

Pursuant to Chapter 62-330.310, F.A.C., Individual Permits will not be converted from the construction phase to the operation phase until construction completion certification of the project is submitted to and accepted by the District. This includes compliance with all permit conditions, except for any long term maintenance and monitoring requirements. It is suggested that the permittee retain the services of an appropriate professional registered in the State of Florida for

periodic observation of construction of the project.

For projects permitted with an operating entity that is different from the permittee, it should be noted that until the construction completion certification is accepted by the District and the permit is transferred to an acceptable operating entity pursuant to Sections 12.1-12.3 of the Applicant's Handbook Volume I and Section 62-330.310, F.A.C., the permittee is liable for operation and maintenance in compliance with the terms and conditions of this permit.

In accordance with Section 373.416(2), F.S., unless revoked or abandoned, all SWM systems and works permitted under Part IV of Chapter 373, F.S., must be operated and maintained in perpetuity.

The efficiency of SWM systems, dams, impoundments, and most other project components will decrease over time without periodic maintenance. The operation and maintenance entity must perform periodic inspections to identify if there are any deficiencies in structural integrity, degradation due to insufficient maintenance, or improper operation of projects that may endanger public health, safety, or welfare, or the water resources. If deficiencies are found, the operation and maintenance entity is responsible for correcting the deficiencies in a timely manner to prevent compromises to flood protection and water quality. See Section 12.4 of the Applicant's Handbook Volume I for Minimum Operation and Maintenance Standards.

Engineering Evaluation Tables: Land Use

Basin	Land Type	Area (ac)	% of Total Basin
Basin 1	Lake	1.16	9.15
	Building Coverage	2.98	23.50
	Pavement	4.13	32.57
	Dry Retention Areas	0.23	1.81
	Open Space	4.18	32.97
	Total:	12.68	100%
Other	Welland	3.39	58.25
	Buffer Area	0.51	8.76
	Other	1.92	32.99
	Total:	5.82	100%

Water Quality

Basin	Treatment Type	Treatment System	Volume Required (ac-ft)	Volume Provided (ac-ft)
Basin 1	Treatment	DRY AND WET DETENTION	1.16	1.74

Water Quantity

Basin	Elevation Type	Storm Event (Yr/Day)	Precipitation Depth (in)	Peak Stage (ft NAVD88)	Min. EL (ft NAVD88)	Peak Discharge Rate (cfs)	Allowable Discharge Rate (cfs)
Basin 1	Finished Floor	100Y3D	13.50	15.81	15.90	N/A	N/A
	Perimeter Berm/ Discharge	25YR3D	11.00	15.06	15.60	0.74	0.76
	Road Crown	25YR3D	11.00	15.06	15.10	N/A	N/A
	Parking Lot	10YR1D	6.75	15.06	15.10	N/A	N/A

Bleeder

Basin	Control EL (ft NAVD88)	Structure #	Structure Type	Count	Type	Dia.(in)	Invert EL (ft NAVD88)	Receiving Body
Basin 1	11.80	CS-1	Water Quality	1	Circular Orifice	3.00	11.80	Conservation Area

Inlets

Basin	Control EL (ft NAVD88)	Structure #	Structure Type	Count	Type	Length (in)	Width (in)	Crest EL (ft NAVD88)	Receiving Body
Basin 1	11.80	CS-1	Discharge	1	FDOT MOD D DROP INLET	49.0	37.0	15.60	Conservation Area

Weir

Basin	Control EL (ft NAVD88)	Structure #	Structure Type	Count	Type	Width (in)	Height (in)	Crest EL (ft NAVD88)	Receiving Body
Basin 1	11.80	CS-1	Discharge	1	Rectangular Orifice	3.00	2.50	13.30	Conservation Area

NOT A
CERTIFIED
COPY

Environmental Evaluation:

Wetlands and Other Surface Waters

In accordance with Chapter 62-340, F.A.C., the project area contains approximately 3.39 acres of jurisdictional wetlands and no other surface waters (OSWs). The onsite wetlands consist primarily of a pine-cypress wetland community with varying degrees of coverage by nuisance and exotic species. A Florida Land Use, Cover, And Forms Classification System (FLUCFCS) map is attached as Exhibit No. 3.0. A wetland identification map is attached as Exhibit No. 3.1.

The project will not result in any direct wetland impacts. Secondary wetland impacts were evaluated in accordance with Section 10.2.7 of the Environmental Resource Permit Applicant's Handbook Volume I. The project will not result in any secondary wetland impacts due to a 15' minimum 25' average upland buffer being provided between the wetland and the development footprint. Therefore, no compensatory mitigation is required.

Although not required for mitigation, a total of 3.90 acres which includes 3.39 acres of wetlands and 0.51 acres of upland buffer will be preserved and enhanced. The preserve areas will be enhanced via hand and mechanical removal of nuisance and exotic vegetation followed by natural recruitment. The upland buffer area will be planted with desirable native vegetation. The preserve areas shall be free of Category I and II exotic species and nuisance vegetation immediately following a maintenance activity and will not consist of more than 10% of total combined coverage between maintenance activities. Exotic vegetation species are identified as Category I and II invasive exotic plant species, pursuant to the most current list established by the Florida Exotic Pest Plant Council (FLEPPC). All vegetative debris, including any dead standing debris that results from herbicide spraying, will be physically removed from the onsite preserve area. In the event that the physical removal is not feasible due to excessive damage to non-target species, the resulting vegetative material will be disposed of by one or more of the methods described in the preserve monitoring and maintenance plan. Preserve signage will be placed at 300-ft intervals along the preserve/development interface (refer to Exhibit No. 2.0). Herbicides will be approved for aquatic use and used in accordance with the label. The preserve area will not be encumbered by a conservation easement dedicated to the District. The homeowners association will be responsible for the monitoring and perpetual maintenance of the preserve areas and preserve signage. Qualitative monitoring will be conducted by the permittee for a minimum of five years. Details of the buffer plantings, maintenance, and monitoring activities are included in the plan attached as Exhibit No. 3.2.

Historic surface water flows for the site and in the region have been altered due to permitted SWM systems and canals. The applicant has demonstrated that the project meets Rule 62-330.301(g), F.A.C. because it will not adversely impact the maintenance of surface or ground water levels or surface water flows established pursuant to Section 373.042, F.S. The control elevation of the site was determined using biological indicators and adjacent permit control elevations. The SWM system includes one basin with a control elevation of 11.80-ft NAVD.

Stormwater modeling demonstrated that wetland hydroperiods will not be adversely impacted by the Project. The wetlands are located adjacent to a 1.92-acre Floodplain Compensation Area that will be used as attenuation for the SWM system. Additionally, the hydroperiod of the wetland preserves will be maintained via treated discharge from the stormwater management system. Construction plans include turbidity and erosion control measures. In addition, specifications were included to ensure bare earth areas are stabilized immediately upon reaching final grades when work is being conducted adjacent to wetlands and/or draining to receiving water bodies. Please refer to Exhibit No. 2.0.

Fish, Wildlife, and Listed Species

No adverse impacts to wetland-dependent and listed species are anticipated as a result of the proposed project.

Listed species surveys were conducted by DexBender, Inc. in October 2020. The onsite wetlands have the potential to provide habitat for a variety of wetland-dependent species and listed species. No wetland-dependent endangered or threatened species or species of special concern were observed onsite. However, a total of five (5) dead trees containing potential cavities entrances were identified. No Florida Bonneted Bat FBB, or evidence of guano, staining, or auditory chirping which could be indicative of bats roosting in the structure, were identified within the referenced tree snags during the roost survey. Three (3) potentially occupied gopher tortoise (*Gopherus polyphemus*) burrows were found in the upland pine flatwoods. The proposed enhancement of the onsite wetlands will provide habitat for wetland- dependent species and long-term ecological benefits to wildlife. A protected species map is attached as Exhibit No. 3.3.

This permit does not relieve the applicant from complying with all applicable rules and any other agencies' requirements if, in the future, endangered/threatened species or species of special concern are discovered on the site.

Environmental Evaluation Tables:
Summary

Wetlands and Other Surface Waters: 3.39 acres
Direct Impacts: 0 acres
Secondary Impacts: 0 acres
Net UMAM Functional Loss/ Gain: 0 units
Total Onsite Mitigation Area: 3.9 acres
Total Offsite Mitigation Area: 0 acres

Total Mitigation Bank Credits Provided

Mitigation Bank	Type	Total Credits
		0
Total:		

Onsite Preserve (not a mitigation area)

UMAM Mitigation and Preservation

ID	Acres	Action	Existing Community Description	Proposed Community Description	Current or Without Preserve Score	With Project Score	Time Lag Years.	Risk	P. A. F.	UMAM Gain
WL	3.39	Preservation	Cypress - Pine - Cabbage Palm	Cypress - Pine - Cabbage Palm	1	1	1	1	1.0	0.000
Up Buffer	0.51	Preservation	Pine Flatwoods	Pine Flatwoods	1	1	1	1	1.0	0.000
Total:		3.9								0.000

Related Concerns:

Water Use Permit Status

The applicant has indicated that a groundwater well will be used as a source for irrigation water for the project. Water Use Application No. 210428-6 is being processed concurrently with this permit.

The applicant has indicated that dewatering is required for construction of this project. The applicant has demonstrated that proposed dewatering qualifies for the permit by rule under Rule 40E-2.061, F.A.C.

This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation.

Water and Wastewater Service

Collier County Public Utilities.

Historical/ Archeological Resources

The District has received correspondence from the Florida Department of State, Division of Historical Resources (DHR) dated April 7, 2021, indicating that no significant archaeological or historical resources are recorded in the project area and therefore the project is unlikely to have an effect upon any such properties. The DHR requested that a condition be added to the permit regarding unexpected discoveries during ground disturbing activities on the property. Please refer to General Condition No. 14. This permit does not release the permittee from compliance with any other agencies' requirements in the event that historical and/or archaeological resources are found on the site.

General Conditions for Individual Environmental Resource Permits, 62-330.350, F.A.C.

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.
2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.
3. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation, June 2007), and the Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), which are both incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice," (October 1, 2013), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02505>), incorporated by reference herein, indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C., and shall be submitted electronically or by mail to the Agency. However, for activities involving more than one acre of construction that also require a NPDES stormwater construction general permit, submittal of the Notice of Intent to Use Generic Permit for Stormwater Discharge from Large and Small Construction Activities, DEP Form 62-621.300(4)(b), shall also serve as notice of commencement of construction under this chapter and, in such a case, submittal of Form 62-330.350(1) is not required.
5. Unless the permit is transferred under rule 62-330.340, F.A.C., or transferred to an operating entity under rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms, and conditions of the permit for the life of the project or activity.
6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:
 - a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex- "Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit" [Form 62-330.310(3)]; or
 - b. For all other activities- "As-Built Certification and Request for Conversion to Operational Phase" [Form 62-330.310(1)].
 - c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.
7. If the final operation and maintenance entity is a third party:
 - a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as-built certification, whichever comes first, the permittee shall submit, as

applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.4 of Volume I) as filed with the Florida Department of State, Division of Corporations, and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.

b. Within 30 days of submittal of the as-built certification, the permittee shall submit "Request for Transfer of Environmental Resource Permit to the Perpetual Operation and Maintenance Entity" [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.

8. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.
9. This permit does not:
 - a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
 - b. Convey to the permittee or create in the permittee any interest in real property;
 - c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
 - d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.
10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.
11. The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.
12. The permittee shall notify the Agency in writing:
 - a. Immediately if any previously submitted information is discovered to be inaccurate; and
 - b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.
13. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.
14. If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, stone tools, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the vicinity of the discovery. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section (DHR), at (850)245-6333, as well as the appropriate permitting agency office. Project activities shall not resume without verbal or written authorization from

the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and the proper authorities notified in accordance with section 872.05, F.S. For project activities subject to prior consultation with the DHR and as an alternative to the above requirements, the permittee may follow procedures for unanticipated discoveries as set forth within a cultural resources assessment survey determined complete and sufficient by DHR and included as a specific permit condition herein.

15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.
16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.
17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.
18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with Rule 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

Special Conditions for Individual Environmental Resource Permits, 62-330.350, F.A.C.

1. The construction authorization for this permit shall expire on the date shown on page 2.
2. Operation and maintenance of the SWM system and the preserve areas shall be the responsibility of DR Horton, Inc. The permittee shall notify the Agency in writing within 30 days of any conveyance or division of ownership or control of the property of the system, and the new owner must request transfer of the permit in accordance with Rule 62-330.340, F.A.C.
3. Prior to the commencement of construction and pursuant to Section 4.2.3(d)(3) of Applicant's Handbook Volume I, the permittee shall demonstrate ownership of the project area to the District's Environmental Resource Compliance staff.
4. Prior to the commencement of construction, the permittee shall submit documentation of easement abandonment of the FPL easement located on the property. Alternatively, the permittee can submit a permit modification to exclude works within the FPL easement area.
5. Lake side slopes shall be no steeper than 4:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth.
6. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
7. Prior to any future construction, the permittee shall apply for and receive an Individual ERP. As part of the permit application, the applicant for that phase shall provide documentation verifying that the proposed construction is consistent with the design of the master stormwater management system, including the land use and site grading assumptions.
8. Prior to initiating construction activities associated with this Environmental Resource Permit (ERP), the permittee is required to hold a pre-construction meeting with field representatives, consultants, contractors, District Environmental Resource Bureau (ERB) staff, and any other local government entities as necessary. The purpose of the pre-construction meeting is to discuss construction methods, sequencing, best management practices, identify work areas, staking and roping of preserves where applicable, and to facilitate coordination and assistance amongst relevant parties. To schedule a pre-construction meeting, please contact ERB staff from the Fort Myers Service Center at (239) 338-2929 or via e-mail at: pre-con@sfwmd.gov. When sending a request for a pre-construction meeting, please include the application number, permit number, and contact name and phone number.
9. This permit does not authorize the permittee to cause any adverse impact to or "take" of state listed species and other regulated species of fish and wildlife. Compliance with state laws regulating the take of fish and wildlife is the responsibility of the owner or applicant associated with this project. Please refer to Chapter 68A-27 of the Florida Administrative Code for definitions of "take" and a list of fish and wildlife species. If listed species are observed onsite, FWC staff are available to provide decision support information or assist in obtaining the appropriate FWC

permits. Most marine endangered and threatened species are statutorily protected and a "take" permit cannot be issued. Requests for further information or review can be sent to: FWCConservationPlanningServices@MyFWC.com.

10. Endangered species, threatened species and/or species of special concern have been observed onsite and/or the project contains suitable habitat for these species. It shall be the permittee's responsibility to coordinate with the Florida Fish and Wildlife Conservation Commission and/or the U.S. Fish and Wildlife Service for appropriate guidance, recommendations and/or necessary permits to avoid impacts to listed species.
11. An average 25' wide, minimum 15', buffer of undisturbed upland vegetation shall be maintained between the proposed development and existing wetlands. Buffers shall be staked and roped and District environmental staff notified for inspection prior to clearing..
12. Prior to the commencement of construction, the perimeter of protected preservation areas/conservation areas shall be staked/roped/silt fenced to prevent encroachment into the protected areas. Using Global Positioning System (GPS) technology, the perimeter of the preserve area(s) shall be identified for future reference. The data shall be differentially corrected and accurate to less than a meter (+/- one meter or better). Electronic copies of the GPS data shall be provided to the District's Environmental Resource Compliance staff. The permittee shall notify the District's Environmental Resource Compliance staff in writing upon completion of staking/roping/silt fencing and schedule an inspection of this work. The staking/roping/silt fencing shall be subject to District staff approval. The permittee shall modify the staking/roping/silt fencing if District staff determines that it is insufficient or is not in conformance with the intent of this permit. Staking/roping/silt fencing shall remain in place until all adjacent construction activities are complete.
13. A monitoring program shall be implemented in accordance with Exhibit No. 3.2. The monitoring program shall extend for a period of a minimum of 5 years with annual reports submitted to District staff. At the end of the first monitoring period the area shall contain an 80% survival of any planted vegetation. The 80% survival rate shall be maintained throughout the remainder of the monitoring program, with replanting as necessary. If native wetland, transitional, and upland species do not achieve an 80% coverage within the initial two years of the monitoring program, native species shall be planted in accordance with the maintenance program. At the end of the 5 year monitoring program the entire mitigation area shall contain an 80% survival of planted vegetation and an 80% coverage of desirable obligate and facultative wetland species.
14. Prior to construction, and in accordance with the work schedule herein, a baseline monitoring report for Soluna shall be submitted as described in Exhibit No. 3.2.
15. A time zero monitoring report for Soluna shall be conducted in accordance with Exhibit No. 3.2 for the onsite preserve area.
16. A maintenance program shall be implemented in accordance with Exhibit No. 3.2 and the mitigation plan for the preserves on a regular basis to ensure the integrity and viability of those areas as permitted. Maintenance shall be conducted in perpetuity to ensure that the conservation areas are maintained free from Category 1 & 2 exotic vegetation (as defined by the Florida Exotic Pest Plant Council immediately following a maintenance activity). Maintenance in perpetuity shall also insure that conservation areas, including buffers, maintain the species and coverage of native, desirable vegetation specified in the permit. Coverage of

exotic and nuisance plant species shall not exceed 10% of total cover between maintenance activities. In addition, the permittee shall manage the conservation areas such that exotic/nuisance plant species do not dominate any one section of those areas.

17. Activities associated with the implementation of the monitoring and maintenance plan shall be completed in accordance with the work schedule included herein. Any deviation from these time frames must be coordinated with the District's Environmental Resource Compliance staff, and may require a minor modification to this permit. Such requests must be made in writing and shall include (1) reason for the change, (2) proposed start/finish and/or completion dates; and (3) progress report on the status of the project development or mitigation effort.
18. If monitoring reports or other information show the preserved wetlands have been negatively affected by the permitted development in a manner that is irreversible (such as impounding the wetland and drowning the existing vegetation or a reduction in the hydroperiod resulting in the transition of wetlands into upland/transitional habitat), the permittee shall be required to submit a remediation plan within 30 days of notification by the District's Environmental Resource Compliance staff of such conditions. The remediation plan may include onsite or offsite mitigation as necessary to address any deficiencies.
19. Permanent physical markers designating the preserve status of the wetland preservation areas and buffer zones shall be placed as shown on Exhibit 2.0. These markers shall be maintained in perpetuity.

Project Work Schedule for Permit No. 11-104971-P

The following activities are requirements of this Permit and shall be completed in accordance with the Project Work Schedule below. Please refer to General Conditions, Special Conditions and/or Specific Conditions for more information. Any deviation from these time frames will require prior approval from the District's Environmental Resources Bureau and may require a minor modification to this permit. Such requests must be made in writing and shall include: (1) reason for the change, (2) proposed start/finish and/or completion dates, and (3) progress report on the status of the project.

Condition No.	Date Added	Description (Application Number)	Due Date	Date Satisfied
GC 4	09/03/2021	Construction Commencement Notice	Prior to Construction	
GC 6	09/03/2021	Submit Certification	30 Days After Construction Completion	
GC 7	09/03/2021	Submit Operation Transfer Request	Within 30 days of Certification	
SC 3	09/03/2021	Submit Proof of Ownership	Prior to Construction	
SC 4	09/03/2021	Submit Vacated Easement Documentation	Prior to Construction	
SC 8	09/03/2021	Pre-Construction Meeting	Prior to Construction	
SC 13	09/03/2021	Submit Mitigation Monitoring Report 1	Within 1 year after Mitigation Construction Complete Date and then Annually for 5 years	
SC 13	09/03/2021	Submit Mitigation Monitoring Report 2	1 year after previous submission	
SC 13	09/03/2021	Submit Mitigation Monitoring Report 3	1 year after previous submission	
SC 13	09/03/2021	Submit Mitigation Monitoring Report 4	1 year after previous submission	
SC 13	09/03/2021	Submit Mitigation Monitoring Report 5	1 year after previous submission	
SC 14	09/03/2021	Submit Baseline Monitoring Report	11/01/2021	
SC 15	09/03/2021	Submit Time Zero Report	Within 30 Days of Mitigation Construction Complete Date	

GC = General Condition

SC = Special Condition

Distribution List

James Schwartzel, Sun Broadcasting, Inc

Craig Smith, Dex Bender

Audubon of Florida

Div of Recreation and Park - District 4

US Army Corps of Engineers - Permit Section

NOT A CERTIFIED COPY

Exhibits

The following exhibits to this permit are incorporated by reference. The exhibits can be viewed by clicking on the links below or by visiting the District's ePermitting website at <http://my.sfwmd.gov/ePermitting> and searching under this application number 210322-5660 .

Exhibit No. 1.0 Location Map

Exhibit No. 2.0 Plans

Exhibit No. 2.1 Construction Pollution Prevention Plan

Exhibit No. 2.2 Urban Stormwater Management Program

Exhibit No. 3.0 FLUCCS Map

Exhibit No. 3.1 Wetland ID Map

Exhibit No. 3.2 Monitoring & Maintenance Plan

Exhibit No. 3.3 Protected Species Map

NOTICE OF RIGHTS

As required by Chapter 120, Florida Statutes, the following provides notice of the opportunities which may be available for administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, or judicial review pursuant to Section 120.68, Florida Statutes, when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Some of the legal proceedings detailed below may not be applicable or appropriate for your situation. You may wish to consult an attorney regarding your legal rights.

RIGHT TO REQUEST ADMINISTRATIVE HEARING

A person whose substantial interests are or may be affected by the South Florida Water Management District's (District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Florida Statutes. Persons seeking a hearing on a District decision which affects or may affect their substantial interests shall file a petition for hearing in accordance with the filing instructions set forth herein within 21 days of receipt of written notice of the decision unless one of the following shorter time periods apply: (1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Florida Statutes; or (2) within 14 days of service of an Administrative Order pursuant to Section 373.119(1), Florida Statutes. "Receipt of written notice of agency decision" means receipt of written notice through mail, electronic mail, posting, or publication that the District has taken or intends to take final agency action. Any person who receives written notice of a District decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

If the District takes final agency action that materially differs from the noticed intended agency decision, persons who may be substantially affected shall, unless otherwise provided by law, have an additional point of entry pursuant to Rule 28-106.111, Florida Administrative Code.

Any person to whom an emergency order is directed pursuant to Section 373.119(2), Florida Statutes, shall comply therewith immediately, but on petition to the board shall be afforded a hearing as soon as possible.

A person may file a request for an extension of time for filing a petition. The District may grant the request for good cause. Requests for extension of time must be filed with the District prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and whether the District and any other parties agree to or oppose the extension. A timely request for an extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

FILING INSTRUCTIONS

A petition for administrative hearing must be filed with the Office of the District Clerk. Filings with the Office of the District Clerk may be made by mail, hand-delivery, or e-mail. Filings by facsimile will not be accepted. A petition for administrative hearing or other document is deemed filed upon receipt during normal business hours by the Office of the District Clerk at the District's headquarters in West Palm Beach, Florida. The District's normal business hours are 8:00 a.m. – 5:00 p.m., excluding weekends and District holidays. Any document received by the Office of the District Clerk after 5:00 p.m. shall be deemed filed as of 8:00 a.m. on the next regular business day.

Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the District Clerk, 3301 Gun Club Road, West Palm Beach, Florida 33406.
- Filings by hand-delivery must be delivered to the Office of the District Clerk. Delivery of a petition to the District's security desk does not constitute filing. It will be necessary to request that the District's security officer contact the Office of the District Clerk. An employee of the District's Clerk's office will receive and process the petition.
- Filings by e-mail must be transmitted to the Office of the District Clerk at clerk@sfwmd.gov. The filing date for a document transmitted by electronic mail shall be the date the Office of the District Clerk receives the complete document.

INITIATION OF ADMINISTRATIVE HEARING

Pursuant to Sections 120.54(5)(b)4. and 120.569(2)(c), Florida Statutes, and Rules 28-106.201 and 28-106.301, Florida Administrative Code, initiation of an administrative hearing shall be made by written petition to the District in legible form and on 8 1/2 by 11 inch white paper. All petitions shall contain:

1. Identification of the action being contested, including the permit number, application number, District file number or any other District identification number, if known.
2. The name, address, any email address, any facsimile number, and telephone number of the petitioner, petitioner's attorney or qualified representative, if any.
3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
4. A statement of when and how the petitioner received notice of the District's decision.
5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.
6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the District's proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the District's proposed action.
8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the District to take with respect to the District's proposed action.

MEDIATION

The procedures for pursuing mediation are set forth in Section 120.573, Florida Statutes, and Rules 28-106.111 and 28-106.401–405, Florida Administrative Code. The District is not proposing mediation for this agency action under Section 120.573, Florida Statutes, at this time.

RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to Section 120.68, Florida Statutes, and in accordance with Florida Rule of Appellate Procedure 9.110, a party who is adversely affected by final District action may seek judicial review of the District's final decision by filing a notice of appeal with the Office of the District Clerk in accordance with the filing instructions set forth herein within 30 days of rendition of the order to be reviewed, and by filing a copy of the notice with the appropriate district court of appeals via the Florida Courts E-Filing Portal.