

**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
CASABELLA SUBDIVISION**

WHEREAS, the Declarant, CASABELLA DEVELOPMENT, L.C.C. has filed the original DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CASABELLA SUBDIVISION in Official Records Book 4570, Page 1786, Public Records of Brevard County, Florida; and

WHEREAS, the Declarant, CASABELLA DEVELOPMENT, L.C.C. recorded a FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CASABELLA SUBDIVISION recorded in Official Records Book 5225, Page 2846, Public Records of Brevard County, Florida; and

WHEREAS, the Declarant, CASABELLA DEVELOPMENT, L.C.C. recorded an AMENDMENT TO FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CASABELLA SUBDIVISION recorded in Official Records Book 5245, Page 0291, Public Records of Brevard County, Florida; and

WHEREAS, the Declarant, CASABELLA DEVELOPMENT, L.C.C. desires to further amend the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CASABELLA SUBDIVISION by recording this AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CASABELLA SUBDIVISION as follows:

PREAMBLE

The intent of these covenants and deed restrictions, and the related provisions contained herein, can be stated in four mutually supporting and equally important tenets:

1. Protection of the rights of property owners.
2. Courtesy, safety and consideration for neighbors and the community as a whole.
3. The maintenance and protection for neighbors and the community as a whole.
4. The shared financial responsibilities of property owners by regular, periodic, and special assessments: as well as the provision of Administrative Fees and Fines for noncompliance with the substantive stated herein.

WHEREAS, CASABELLA DEVELOPMENT, LLC, hereinafter called the Declarant, is the owner of that real property in Brevard County, Florida, which shall bear the name "CASABELLA SUBDIVISION" located within the city limits of Melbourne, Florida, and consisting of real property described as follows:

1. That parcel of real property described in "Exhibit A" (PHASE ONE) attached hereto and made a part hereof; and;

2. That parcel of real property described in "Exhibit B" (PHASE TWO) attached hereto and made a part hereof; and;
3. That parcel of real property described in "Exhibit C" (PHASE THREE) attached hereto and made a part hereof; and

WHEREAS, the Declarant desires to convey the Property subject to certain protective covenants, conditions, restrictions, liens, and charges as hereinafter set forth; and

WHEREAS, Declarant desires to create and carry out a uniform plan for the improvement, development and sale for the Property for the improvement, development and sale of the Property for the benefit of the present and future owners of the Property;

NOW, THEREFORE, KNOW ALL MEN AND WOMEN BY THESE PRESENTS, that it is hereby declared (i) that all of the Property shall be held, sold conveyed and occupied subject to the following covenants, conditions, restrictions, liens and charges, which are for the purpose of protection the value and desirability of, and which shall run with, the Property and which shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns, and which shall insure to the regard to the Property or any portion thereof; and (ii) that each contract or deed that may hereafter be executed with and accepted subject to the following covenants, conditions and restrictions regardless of whether or not the same are set out or referred to in said contract or deed.

ARTICLE I **DEFINITIONS**

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified:

A. CASABELLA SUBDIVISION: "CASABELLA SUBDIVISION" shall mean one "community", or SUBDIVISION, including the Property, which may hereafter include adjacent tracts and have similar features, covenants, conditions, and restrictions, and which may share a common Association, with appropriate committees or sub-committees. The Declarant shall have the authority to declare other tracts subject to the same or similar residential restrictions, and to award membership in the Association to lot owner of other Subdivisions.

B. Architectural Review Board: "Architectural Review Board" (ARB) shall mean the committee created pursuant to this Declaration to review and approve plans for the construction of improvements on the property.

C. Architectural Review Board Rules: "Architectural Review Board Rules" shall mean the rules and regulations adopted by the Architectural Review Board, as the same may be amended from time to time.

D. Articles: "Articles" shall mean Articles of Incorporation of CASABELLA SUBDIVISION Homeowners Association, Inc., as that instrument may be amended from time to time, which instrument is or shall be filed in the

office of the Secretary of the State of Florida.

E. Assessment: "Assessment" or "Assessments" shall mean such assessments as may be levied by the Association under the terms and provisions of this Declaration.

F. Association: "Association" shall mean CASABELLA SUBDIVISION Homeowners Association, Inc., a non-profit corporation, which shall have authority and responsibility for all of the communities and Subdivisions of CASABELLA SUBDIVISION, as hereafter defined.

G. Board: "Board" shall mean the Board of Directors of the CASABELLA SUBDIVISION Homeowners Association, Inc.

H. Bylaws: "Bylaws" shall mean the Bylaws of the Association as adopted by the Board, and from time to time amended.

I. Estate: "Estate" shall mean and refer to a Tract, Lot any other interest in real property contained within the Property, the ownership of which, by the terms of this Declaration, causes the owner thereof to be a Member of the Association.

J. Declarant: "Declarant" shall mean CASABELLA DEVELOPMENT, LLC, its duly authorized representatives or their respective successors or assigns; provided that any assignment of the rights of CASABELLA DEVELOPMENT, LLC, as Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

K. Declaration: "Declaration" shall mean this instrument as it may be amended from time to time.

L. Common Areas: "Common Areas" shall mean any land conveyed, leased, dedicated or assigned by Declarant, or by a third party with the Association's consent, to the Association for maintenance and operation, including, but not limited to, easements, roads, entry ways, roadways, rights-of-way, parkways, median strips, sidewalks, parks, trails, paths, ponds, creeks, lakes and other amenities within the Property or subdivision.

M. Improvements: "Improvements" shall mean every structure and all appurtenance thereto of every type and kind, including, but not limited to buildings, outbuildings, storage sheds, patios, tennis courts, swimming pools, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, and poles, pumps, walls, tanks, reservoirs, pipes, lines, meters, antennae, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

N. Lot: "Lot" or "Lots" shall mean any parcel or parcels of land within the Property shown as a subdivided lot on a recorded plat of the Property, together with all Improvements located thereon.

O. Member: "Member" or "Members" shall mean any person(s), entity, or entities holding membership rights in the Association.

P. Mortgage: "Mortgage" or "Mortgages" shall mean any mortgage or deed of trust covering any portion of the Property given to secure the payment of a debt.

Q. Mortgagee: "Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage or Mortgages.

R. Owner: "Owner" or "Owners" shall mean a person or persons, entity or entities, including Declarant, holding a fee simple interest in any Lot on the Property, but shall not include a Mortgagee.

S. Person: "Person" or "Persons" shall mean any individuals, entity or entities having the legal right to hold title to real property.

T. Drawings and Specifications: "Drawings and Specifications" shall mean any and all documents designed to guide or control the construction or erection of any Improvement, including, but not limited to, those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to such Improvements.

U. TRANSITION OR TURNOVER shall mean that time when the developer shall no longer be entitled to elect a majority of the Board of Trustees. The time for Transition and Turnover shall occur when:

1. Ninety-five percent (95%) of the plat lots as well as the lots which have been or will be platted have been conveyed to third parties by the Developer, or

2. On April 1, 2010 whichever event first occurs.

V. CASABELLA SUBDIVISION Residential Restrictions: "CASABELLA SUBDIVISION Residential Restrictions" shall mean this Declaration, as the same may be amended from time to time, together with the CASABELLA SUBDIVISION Rules, Architectural Review Board Rules and the Articles and Bylaws of the Association as the same are in effect from time to time.

W. CASABELLA SUBDIVISION Rules: "CASABELLA SUBDIVISION Rules" shall mean the rules and regulations adopted by the Board as the same may be amended from time to time.

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

Y. Drainage Easement Areas: "Drainage Easement Areas" shall mean and refer to those portions of Lots 1-5, Block "D," Phase I; Lots 1-12, 30-38, Block "E," Phase I; Lots 1-7, 14-21, 23-25 and 27, Block "F," Phase II; Lots 14-16 and 18-29, Block "E," Phase II; and any other areas so identified on a subdivision plat of the property.

Z. Conservation Easement Area: “Conservation Easement Area” shall mean and refer to all such property so designated as Tract E upon any recorded subdivision plat or plats of the properties. The Developer reserves the right to add lands to the Conservation Easement Area.

ARTICLE II
DEVELOPMENT OF THE PROPERTY

A. Development by Declarant. Declarant may divide or subdivide the Property into several areas to develop some of the Property, and, at Declarant's option, sell any portion of the Property free of the restrictions set forth in this Declaration.

B. Addition of Land. Declarant may, at any time and from time to time, add any other lands to the Property, and upon such addition, this Declaration and the covenants, conditions, restrictions and obligations set forth herein shall apply to the added land, and the rights, privileges, duties and liabilities of the persons subject to this Declaration shall be the same with respect to the added land as they are with respect to the lands originally covered by this Declaration. In order to add lands to the Property hereunder, Declarant shall be required only to record in the Official Records of Brevard County, Florida, a notice of addition of land containing the following provisions:

- (a) A reference to the Declaration, which reference shall state the book and page numbers of the Official Records of Brevard County wherein this Declaration is recorded;
- (b) A statement that the provisions of this Declaration shall apply to the added land; and
- (c) A legal description of the added land.

C. Withdrawal of Land. Declarant may, at any time and from time to time, reduce or withdraw areas from the Property, and upon such withdrawal, this Declaration and the covenants, conditions, restrictions and obligations set forth herein shall no longer apply to those lands withdrawn. In order to withdraw lands from the Property hereunder, Declarant shall be required only to record in the Official Records of Brevard County, Florida, a notice of withdrawal of land containing the following provisions:

- (a) A reference to this Declaration, which reference shall state the book and page number of the Official Records of Brevard County wherein this Declaration is recorded;
- (b) A statement that the provisions of this Declaration shall no longer apply to the withdrawn land; and

(c) A legal description of the withdrawn land. At present the lands in the east boundary of the development adjacent are zoned commercial. Four residential uncleared lots are presently designed in this section of commercial property but the future of these lands has not been decided. Their future use may either be for commercial purposes, access to additional lands to the west for residential use or development of a common amenity area. Other restrictions would be determined solely by the Declarant and would ensure that no offensive commercial development ensued. The Homeowner’s Association and individual homeowner’s are made aware of

such a possibility by virtue of the statements above and waive right to oppose such an occurrence.

ARTICLE III
GENERAL RESTRICTIONS

Each Owner shall comply strictly with the provisions of the CASABELLA SUBDIVISION Residential Restrictions as the same may be amended from time to time. Failure to comply with any of the CASABELLA SUBDIVISION Residential restrictions shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association or by an aggrieved Owner. Declarant, for itself, its successors or assigns, reserves the right to enforce these restrictive covenants within the Property. The reservation of this right of enforcement shall not create an obligation of any kind to enforce the same.

All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

A. Construction of Improvements. No Improvements shall hereafter be constructed upon any of the Property without the prior approval of the Architectural Review Board.

B. Antennae and Signals. No antenna or other device for the transmission or reception of television signals, radio signals, or any other form of electromagnetic radiation shall be erected, used, or maintained on any Lot, whether attached to a building or structure or otherwise, without the prior written approval of the Architectural Review Board. No radio signal, television signals or any other form of electromagnetic radiation shall originate from any Lot so as unreasonably interfere with the reception of television or radio signals on any other Lot. Satellite dishes for cable or broadband Internet access will be allowable but such dishes shall be placed so as not to be viewable from any street. On lots facing retention ponds the dish should be on the sides of the homes and out of view from homes from a cross the retention pond or viewable areas from streets. In most cases this would require a west facing structure. Such devices shall be place no higher than ten feet above ground level.

C. Insurance Rates. Nothing shall be done or kept on the Property which would increase the rate of Insurance or cause the cancellation of insurance on any Lot or any of the Improvements located thereon without prior written approval of the Board.

D. Subdividing. No Lot shall be further divided or subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey an easement or other interest less than the whole, all without the approval of the Architectural Review Board. Declarant may also increase the size of lots.

E. Signs. No signs of any kind shall be displayed to the public view on the Property without the prior written approval of the Architectural Review Board, except for signs, which are part of Declarant's overall marketing plan for the Property. The Architectural Review Board may permit signs of any type advertising a portion of the Property for sale or lease or it may set standards for the same. Said signs shall not exceed the usual and customary standard size for the local real estate community and shall not in any case exceed four feet in height or width nor extend greater than five feet above the ground. Only one sign shall be permitted per lot. No sign shall

be attached to a tree.

F. Rubbish and Debris. No rubbish and debris of any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Property or to its occupants. Refuse, garbage, and trash shall be kept at all times in covered containers and such containers shall be kept within enclosed structures or appropriately screened from view. If rubbish or debris accumulates upon any Lot in violation of this provision in the judgment of the Association, the Association may remove the rubbish or debris, and then charge the Owner of said Lot for all fees encumbered by the Association for the removal of said Rubbish or Debris. All garbage containers shall be located within the garage or at the side or back of the lot in an enclosed space so as not to be seen from the street. Garbage containers shall not be placed at the curb for collection no sooner than twenty four hours before the time scheduled for collection and Owner shall remove the garbage container from the curb of the Lot within twelve hours of collection.

G. Noise. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants.

H. Lighting. No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property, except for reasonable security or landscape lighting that has the approval of the Architectural Review Board.

I. Nuisance and Lateral Support. No noxious or offensive activity or work shall be conducted upon any Lot so as to impair the structural soundness or integrity of any Improvements of any other Lot, or which may be or may become an annoyance or nuisance to the neighborhood.

J. Repair of Improvements. All improvements upon the Property, including any Lot, shall at all time be kept in good condition and repair and adequately painted or otherwise maintained by the Owner or Owners thereof.

K. Alteration or Removal of Improvements. Exclusive of normal maintenance, any construction or removal in connection with any Improvement which in any way alters the exterior appearance of said Improvement shall be performed only with the prior written approval of the Architectural Review Board.

L. Roofing Materials. The surface of all roofs of principal and secondary structures shall be clay or cement tiles. The Architectural Review Board shall have authority to approve or disapprove any roof treatment based on its determination such treatments and materials may enhance or be a detriment to the quality of the neighborhood. No metal roofs are allowed.

M. Solar Equipment. In the event an Owner desires to use solar panels or other solar equipment in connection with the use of any Lot, the location and installation design thereof shall be submitted to the Architectural Review Board and approval of such design, including the aesthetics thereof, shall be required before construction may begin. No solar equipment shall be so placed as to have direct view from any street. Lots in which the rear of the house is visible from the front entry pond shall only be allowed solar equipment on west facing roofs.

N. Garages. The Architectural Review Board shall have the right to impose limitations on garage design, including materials, aprons, and location. Side facing garages are highly encouraged, and on lots facing North or South shall have their entrance facing West, and on lots facing East or West shall have their entrance facing North.

This rule may be broken in certain circumstances after approval by the ARB. On corner lots the garage shall be located on one of the outer lot borders away from the corner of the lot. No garage may be turned into an air-conditioned space to be used for any purpose other than a garage unless an alternative garage of at least equal size is constructed and the plans and specifications for the conversion and construction are first approved in writing by the Architectural Review Board. The garage door shall not be altered, closed in converted to screens or permanent walling. No plastic or fiberglass garage doors or other unsightly door systems shall be allowed. Any nonstandard material for garage door must be submitted as a proposal to the committee prior to installation and receive their approval. Garages service doors are optional.

O. Tanks. The Architectural Review Board shall have the right to approve the location of any tank used or proposed in connection with a single family residential structure, including tanks for, water, and including swimming pools filter tanks. No tanks for storage of fuel, oil, gas or other environmentally unsafe materials shall be allowed. (No elevated tanks of any kind shall be erected, placed or permitted on any Lot). All tanks shall be at ground level with enclosures made of attractive materials or be screened with fencing or shrub row so as not to be visible from any other portion of the Property or other lots.

P. Underground Utility Lines. No utility lines, including, but not limited to, wires or other devices for the communication or transmission of telephone or electric current or power, cable television or any other type of line or wire shall be erected, placed or maintained anywhere in or upon any portion of the Property unless the same shall be contained in conduit or cables installed and maintained underground or concealed in, under or on Improvements as approved in writing by the Architectural Review Board; provided, however, that no provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of improvements which have been previously approved in writing by the Architectural Review Board. The installation method, including but not limited to location, type of installation equipment, trenching method and other aspects of installation for both temporary and permanent utilities, shall be subject to review and approval by the Architectural Review Board.

Q. Drainage.

1.) There shall be no interference with the established drainage patterns over any of the property, except by Declarant, unless adequate provision is made for property drainage and approved by the Architectural Review Board and St. Johns River Water Management District. Easements for installation and maintenance of utilities and drainage facilities are shown on the plat, or are have record, and the same are reserved for such use. Within these easements as defined in Article I, Paragraph Y, or on any lot, no structure, planting or other material shall 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 of drainage in the easements as defined in Article I, Paragraph Y, or which may obstruct or retard the flow of water through drainage channels in the easements as defined in Article I, Paragraph Y, or which may otherwise disturb the surface water or stormwater system. It is important that the banks, swales and drainage areas located within the subdivision remain undisturbed and properly maintained in order to perform their function. Where any portion of such berms, swales, banks lie within a Lot, the Owner of that Lot shall maintain the same continuously and shall not disturb, damage or otherwise interfere with the berm, drainage canal or other portion of said lake, drainage canal or system which is located on or adjoins said owner's Lot. Lot swales or berms which are required to be located on certain lots in the subdivision, pursuant to the subdivision construction plans and the St John's River Water Management district permit, shall be constructed, maintained and repaired by the respective Lot Owners in accordance with said plans and permit. The initial construction of the Lot swales/berms shall be completed prior to the issuance of a certificate of occupancy for

any residence to be constructed on said Lot: provided, however, initial construction of said berms and swales must be completed no later than the mandatory completion date established pursuant to the St John's River Water Management District permit, even if a residence has not been constructed on the Lot.

2.) All Lot Owners who adjoin a Common Area or wetland shall assist the Association in maintaining these areas. No Lot Owner shall disturb or damage any wetland plantings in adjacent common Areas. In the event an Owner does damage a wetland plant in common Area, the Owner shall be responsible for the replacement and replanting of all damaged or destroyed plants and restoration of disturbed area within thirty days or written notification by the Declarant or the Homeowners Association.

3.) Easements for ingress, egress and access are hereby reserved in favor of the Developer and the Association over and across the platted utility and drainage easements encumbering all Lots adjacent to Common Areas for the purpose of access to said Common Areas for repair and maintenance. The Developer and Association may, without incurring any liability from the Lot Owner for trespass or damages, remove any impediments to these access rights, and may levy a special assessment for the cost of such removal.

R. Hazardous Activities. No activities shall be conducted on the Property and no improvements shall be constructed on the Property that are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property, and no open fires shall be lighted or permitted except within safe and well designed interior fireplaces, or in contained barbecue units while attended and in use for cooking purposes.

S. Machinery and Equipment. Without the approval of the Association or Declarant, no machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or Common Area in connection with the use, maintenance, or construction of a private residence or appurtenant structures of recreational facilities maintained by the Association; provided however, such machinery or equipment may be placed, operated or maintained by any governmental or quasi governmental agency, or by a public utility, in the performance of its legitimate functions. Personal Lawnmowers and other power tools for lawn care are an exception to the above and are allowable. Lawnmowers or other equipment may be stored in sheds or separate structures maximum height six feet provided such structures are not visible from any other lot. This would be possible by six-foot fencing or a mature and well-maintained hedge row. The Architectural Review Board may make a case by case decision on this issue after review. Declarant and subsequently the homeowner's association may have a shed on a common area without restriction in size as needed to store machinery for lawn care of common areas.

T. Temporary Structures. No tent, shack or other temporary building, improvement or structure shall be placed upon the Property without the prior written approval of the Architectural Review Board; provided however, that the Declarant may maintain or authorize temporary structures necessary for storage of tools and equipment, and for office space for architects, builders and foremen on the Property during any period of actual construction, which authorization, if given, shall include the nature, size, duration and location of such structure or structures. Declarant may use a lot for a temporary sales office.

U. Unightly Articles; Vehicles. No trailer, recreational vehicle, tent, boat, or stripped down wrecked, junked, or wholly inoperable vehicle shall be kept, parked, stored, or maintained on any portion of the driveway or front yard in front of the building line of the permanent structure, and shall be kept, parked, stored or maintained on other portions of a Lot only within an enclosed structure or a screened area which prevents the view thereof from adjacent Lots of streets. No dismantling or assembling of motor vehicles, boats, trailers, recreational vehicles, or

other machinery or equipment shall be permitted in any driveway or yard adjacent to a street.

V. Parking. No mobile homes, manufactured Homes, commercial vehicles, truck larger than a small non-commercial pick up truck or semi-trailers. shall be parked, placed, or erected on any Lot at any time except for loading and unloading purposes. No travel trailers, boats or other recreational vehicles shall be parked on or near any Lot so as to be visible from adjoining property or public or private thoroughfares for more than forty-eight (48) hours. Boats, watercraft, campers or similar recreational vehicles may only be placed and kept or stored upon a Lot containing a residence, place no further forward than ten feet behind the front building line of the residence, with landscape or with a six foot fence screening so as to make same not visible from the street or adjoining Lot (including side street in the case of a corner Lot), or in a closed garage. The overnight parking of private vehicles on the streets or on community properties of Casabella is prohibited. It is understood, however, that special situations will exist from time to time in which street parking might be necessary. Under such conditions, the homeowner has a seventy two-hour grace period over a weekend or twenty four-hour period weekdays provided the tag number and description of the vehicle is given to a committee representative. If prolonged street parking is required for example due to garage door failure then a windshield permit will be issued so, as the car does not get towed. All vehicles parked on streets extending over grace period or after attempts are made by committee representative to locate owner to no avail will be subject to towing at owner's expense.

W. Fences and Walls. No chain-link fence, board on board, stockade or woven wire fences or artificial stone walls are allowed. Wooden shadow box type, aluminum and the newer composite plastic fences and stucco, or natural stone walls are allowed. The ARB may allow other fences on a case by case review. No fence, wall, or mass planting greater than six feet in height shall be built or maintained forward of the front wall line of the main structure, not including decorative walls or fences which are part of the architectural design of the main structure, and which are not to be built or maintained nearer than the building setback line of any lot. An exception shall be made in the case of retaining walls not to exceed twenty-four inches (24") above the ground. Notwithstanding the foregoing, the Architectural Review Board is empowered to waive the aforesaid height or setback limitation in connection with retaining walls and decorative walls if, in its sole discretion, such waiver is advisable in order to accommodate a unique, attractive or advanced building concept design or material and the resulting decorative wall and/or retaining wall will not detract from the general appearance of the neighborhood. Corner lots or other lots that wish to construct a fence or wall along their side property line that directly face a street must also plant and maintain a hedge row or other substantial landscaping along the outer margin of the fence that directly faces the street. In some cases this might mean Lot Owner must plant landscaping on common property which will be allowed and required. In the case of corner lot side fences will have a twenty-foot setback requirement from the side property line on which the fence is being constructed. Unless otherwise approved by the ARB, any time a wooden fence is used, it shall be of standard grade cedar, four to six feet in height (4' - 6') with finished (smooth) side facing all streets, common areas, or adjoining properties which are not part of CASABELLA SUBDIVISION, and the rough side facing the interior of the Lot. All post shall be set in concrete and buried at least eighteen (18) inches beneath the surface of the surrounding ground. Open aluminum fences, maximum six feet tall are highly encouraged on all lots facing retention ponds on the back property line and twenty feet rear side property line measured from the environmental easement line. All solid fences placed on lots that face retention ponds shall be four feet maximum along the back property line and rear twenty feet along the side rear property line measured back from the environmental easement line. Significant landscaping buffer beyond the fence shall include a minimum of three mature palm trees, or a hedgerow or three two-inch oaks measured 36 inches from the ground. Such vegetation may be placed within the environmental easement line with the permission of the homeowner's association and if allowable by any and all governmental agencies. All fences must be in conformance with all governmental regulatory codes and setback requirements. Fences made of lumber shall be pressure treated and be a

minimum of one inch thick. Any fence painted shall be a muted color or white and need be approved by the committee. Shadow box fences six feet in height shall have a minimum of three two inch by four-inch horizontal supports installed between posts. Shadow box fence gate openings will not be wider than six feet but may have two adjacent swinging gates side by side for a maximum opening of twelve feet. Fence posts four-inch by four inch will be placed no greater than eight feet apart. No walls shall be constructed erected or maintained on or around any portion of a Lot that is within the minimum front building setback line. An exception are walls constructed in front of bathrooms to provide privacy but must be no closer than thirty feet from the front of the lot. Decorative walls or planter boxes not exceeding two feet in height are an exception and are exempt from the above requirement. No unfinished cinder block walls will be allowed. Block walls must have stucco finish and be painted. Metal corner moldings are not allowed to prevent rust. Plastic corners are required. In addition, electronic pet fences will be allowed to be installed around the side and rear property line set back two and one-half (2 1/2) feet from the property line and shall be set back a distance of five (5) feet from the beginning of the sidewalk along the front elevation of the property.

X. Animals- Household Pets. No animals, including pigs, hogs, donkeys, swine, poultry, wild animals, horses, cattle, sheep, goats or any other type of animal not considered to be a domestic household pet cannot be housed or maintained on owners lot. No animal may be stabled, maintained, kept, cared for or boarded for hire or remuneration on the Property and no kennels or breeding operation shall be allowed. All domestic pets must be kept on a leash when anywhere other than on lot of its owner. No domestic household pet shall be allowed to run at large and all of such pets shall be kept within enclosed areas, which must be clean, sanitary and reasonably free of refuse, insects and waste at all times. Such enclosed area shall be constructed in accordance with Plans and Specifications approved by the Architectural Review Board, shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be screened so as not to be visible from any other portion of the Property or other lots. All pet owners are responsible to keep pet feces removed from within all areas of the Subdivision. No more than two (2) adult dogs and three (3) adult cats may be kept on a single lot. Further still, no dogs commonly referred to as Pit Bulls or any other dog trained as an attack dog shall be kept in or on the Property for the sole purpose of having on the Lot an "Attack Dog" which may pose a danger to any innocent person, persons, children, or babies not permanently residing on the Lot. All domesticated household pets, whether they are cat or dog, shall not be maintained, trained, utilized, kept, or bred for the sole purpose for serving as an "Attack" Animal. All domestic household pets shall be kept in strict accordance with all local laws and ordinances. If, for any reason whatsoever, the Association needs to detain, incarcerate, capture, or tranquilize any animal or animals which may roam free, and it is found that said animals are the property of an Owner, then all fees necessary to cover such detainment, incarceration, capture, or tranquilization shall be levied against the Owner of said animal(s).

Y. Maintenance of Lawns and Plantings. Each Owner shall keep all shrubs, trees, grass and plantings of every kind on such Owner's lot cultivated, pruned, and free of trash and other unsightly material. Shrubs, vines, trees and plants that die shall be promptly removed. Declarant, the Association and the Architectural Review Board shall have the right after following established practice as outlined elsewhere in this document to cure such violation if not cured by Lot Owner, and to charge the cost thereof to the Owner of the Lots as provided in this document or any amendments hereof for the assessment of such costs. Oak trees planted in the front yard between the sidewalk and road are designed to eventually create a canopy over the street. Therefore such trees shall not be pruned back as to prevent their eventually growth to cover the street. Curb oak trees shall at all times be trimmed from below so as to not obstruct, or otherwise interfere in any manner, with pedestrian use of sidewalks or vehicle use of streets. To prevent sidewalk damage by curb oak trees a minimum of a three-foot distance should be maintained between trees and sidewalks or driveways.

Z. Landscape Design. All landscaping shall be designed so as to promote, as far as practicable, a coordinated theme for the entire subdivision by use of uniform streetscape and some standard features as outlined below. On the few lots where existing trees remains efforts should be made to incorporate these trees into the home design such that the trees do not have to be removed. Such trees however shall not count as for other required oak trees unless located between curb and sidewalk or side landscape areas. To insure the viability of any existing trees, soil compacting, trenching and/or cut and fill shall be avoided, to the greatest extent possible, in the area defined by trees' dripline. Sod is required covering on the front and side and back yards, within thirty (30) days of occupancy of any residence constructed on a Lot. All Lot Owners owning Lots adjoining common Areas shall be required to install sod or to landscape to the edge of the common area and to maintain such sod or landscaping regardless of where the exact boundary line lies between the Lot and the Common Area. It should be remembered that Lots facing retention ponds own the land to the middle of the lake and will be required to sod to the water's edge on their lot. Lots adjacent to tracts for storm water maintenance will be required to sod and maintain fifty per cent of the tract adjacent to their lot. Shrubs, bushes, vegetation and trees in the front yard shall be required on The Lot, within thirty (30) days of occupancy of any residence constructed on a Lot, which have a retail value for materials and labor equal to at least \$4,000.00. A contractor bid or plan shall be submitted to the ARB for review to substantiate the above requirement prior to approval of home plans. Shrubs or bushes that have annual flowers are required. Favored examples are plumbago, Mexican petunias, ixora, dwarf oleanders, butterfly cassia and bougainvillea. Nondwarf oleanders are not allowed due to their tendency to become overgrown and unruly. Front planting beds shall consist of a minimum of a five-foot wide planting bed along the entire front of the home. Side planting beds shall also be required along the home wall a minimum width of two feet side starting at the front setback and running a minimum of thirty percent of the length of each side of the home. Homes on corner lots without a side fence in addition will require a side planting bed along the entire side house wall facing the street. In the side space in the front of the home but adjacent to the side setbacks running from fifteen to thirty five feet back of curb a minimum of a four foot planter bed is required. This side flowerbed will be directly connected to the adjacent homeowner's similar planting area and the vegetation used shall be the same. In the side planting bed on the side adjacent to the garage there shall be a minimum of one tree at least two inches in diameter (measured 36 inches above the ground) and one crepe myrtle or Hibiscus tree. On the side away from the garage a minimum of two palms, one flowering tree at least 2 inches in diameter and one Hibiscus tree or crepe myrtle are required. Favored examples of a flowering tree are Tree of Gold, Cassia, Jacaranda and Jerusalem Thorn. The tree and palms on adjacent lots shall be staggered to allow maximum growth potential for each tree or palm and located 25 to 35' from the curb. The crepe myrtle or Hibiscus tree shall be immediately behind the sidewalk no more than 18" back of the sidewalk. The choice Hibiscus tree vs. crepe myrtle to be the opposite of the bush on the adjoining lot. In addition tall full vegetation is required in these front side-planting beds. Favored examples are silver bottleneck, jatropa, variegated arbacola and plumbago. The goal of this side planting is to help hide passage ways between homes and create a picture frame appearance for each individual home. Additional or larger planting beds are allowable with the above criteria meant to be a minimum standard.

Shrubs or flowering plants alone or in combination with fence or wall shall be placed around air conditioner and pool equipment. A tall Podocarpus shall be placed adjacent to any utility box with exposed upper riser. A Canary Island Date Palm placed in a featured central lot location is highly encouraged. The Declarant will give a five hundred-dollar (\$500.00) payment toward purchase to any homeowner planting a Canary Island Date Palm Tree greater than six(6) feet in height measured from top to bottom of the trunk. Certain key corner lots will be required to have a specimen Canary Island Date Palm, minimum height eight feet, measured top to bottom of trunk, placed in a featured planter box approximately twenty feet in from the corner.

There shall be a mandatory hedgerow along the entire length of any retaining wall or flowering bushes every six feet. Trees (as delineated above) may be added and are optional.

Two additional live oak trees minimum trunk diameter of 4 inches measured 36 inches above ground shall be planted in the space between the street and front sidewalk on standard 85-foot frontage and 90 foot frontage lots. Laurel oaks, maple or other trees are not acceptable. On these standard lots the oak trees shall be placed approximately fifteen (15) feet from the inside border of the driveway and five feet from the property line opposite to the driveway. Curb Oak trees will be nearly centered in the space between curb and sidewalk at six feet from curb and three feet from the sidewalk. On nonstandard lots such as outer corner lots live oak trees shall be placed approximately every 40 feet evenly spaced beginning five feet inward of the lot border opposite the driveway; such lots will likely require a minimum of five oak trees. Other inside corner lots may require but one live oak tree. On lots in which a street light is located between lots, placement of the oak along the lot border shall be adjusted so that it is planted fifteen feet away from the street light but the other oak shall remain fifteen feet inward of the inner driveway border. Lots with circular drives shall maintain the same oak tree spacing. On circular drives the two oaks shall be planted in a similar manner with one oak along the lot border and the other fifteen feet inward of the opposite arm of the circular drive. The oak adjacent to the lot border may be adjusted closer to the side property line or even may be placed on the adjacent lot to help keep the tree a minimum of five feet from the driveway's edge. In no case shall both required curbside oaks be placed in the center of the circular drive. These curb oak trees shall remain perpetually on each lot. In the event that any curbside oak tree dies either by disease or neglect, they shall be replaced to comply with requirements per above. Upon notification by the Association and or ARB each homeowner shall have thirty days to replant said oak tree with same requirements of the initial plantings. To maximize the growth rate of curb oaks, two flood bubblers shall be placed on either side of the oak tree approximately one foot from the trunk of the tree. Also, curb oaks will be fertilized by the Association to ensure rapid growth. Shrubs or flowering plants shall be placed completely surrounding the utility structure in the front easement located on some lots.

AA. Construction and Sales Activities. Notwithstanding any provision herein to the contrary, this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant) upon any Lot within the Property, or the sale of any Lot thereafter. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. No building material of any kind shall be placed or stored upon any Lot until the Owner thereof is ready to commence Improvements, and then the materials shall be placed within the property lines of the Lot upon which the Improvements are to be erected and shall not be placed on the street or on any other part of the Property. In the event of any dispute regarding such matters, a temporary waiver of the applicable provision may be granted by the Architectural Review Board, provided that such construction is commencing, has commenced, or is ready to commence. At such time as the Declarant ceases using any portion of the Property as a model home or sales office, the affected Property shall be altered and/or remodeled, if necessary or desirable, to comply with the covenants and restrictions contained herein

BB. Mailbox. Mailboxes shall be erected and maintained on each lot located on the inner boundary of the driveway approximately five feet away from the inner boundary of the driveway and ten feet away from the adjacent Oak tree. Declarant will provide a custom mailbox at the expense of the homeowner and to be paid at closing of title on the purchase of the lot. Mailboxes will be located on the curb in accordance with postal regulations.

CC. Sight Lines. No fence, wall, hedge, or shrub planting which obstructs sight lines from the street on the Property shall be placed or permitted to remain on any corner Lot within the area defined by a line drawn between two points located forty (40') feet from the point of intersection of the street right-of-way property lines immediately adjacent to the Lot, as reasonably located by the Architectural Review Board. Measurements shall be by chord, not by arc. No tree shall be permitted to remain within such areas, unless the foliage is maintained at sufficient height to prevent obstruction of such sight lines. No fence, wall, hedge or other shrub planting shall be allowed in the rear or side lot lines on retention lots measured 20' back from the environmental easement line that are taller than four feet. Trees are allowed provided they are trimmed to allow visibility below branch lines.

DD. Electronic Burglar Alarms. If any residence on any lot has an electronic burglar alarm system, such system shall comply with all of the following requirements:

- (A) All exterior structure openings are contacted (including non-opening windows).
- (B) The system includes an interior and exterior siren.
- (C) All equipment is UL approved and monitored by a UL approved central station.

EE. Room and Board Plans. No Owner shall permit any Lot or Improvement on any Lot to be used in whole or in part by tenants on rooming or boarding plans or contracts, or both, of any type. Homes may be rented for a minimum of three months. No home shall be rented to more than one tenant each calendar year.

FF. Occupancy Before Completion: No building or structure upon the Properties shall be occupied until the same is approved for by such governmental agency which is responsible for regulation of building construction and until it complies with the terms and provisions of these covenants and restrictions. Upon completion, the Committee shall inspect the Lot and improvements and issue the Lot Builder a certificate of compliance acknowledging that said terms and provisions have been met or itemized as non-compliant. The certificate of compliance shall be delivered to the Owner upon transfer of title or prior to occupancy.

GG. No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Article III or else where in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance upon one or more of such restrictive covenants, terms or provisions shall assume all risk of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

HH. No Solicitation. There will be no solicitation allowed except the ice cream man will be allowed on a one-time per week basis.

II. Sidewalks. All lots shall have sidewalks completely around any street frontage on their Lot. All sidewalks shall be nine feet from curb measured from the curbside of sidewalk. Curb oaks shall be planted between curb and front sidewalk such that oaks are five feet from curb. Curbside sidewalks shall be a minimum of two inches above the level of the curb and sod sloped from front to back so drainage is to the street. If electrical or water

meter boxes or other obstacles prevent such setback then sidewalk setbacks may be altered after review by the ARB but in no case shall be placed immediately adjacent to road curb. All sidewalks are to be five feet wide scored at four-foot intervals with standard two-inch demarcation scoring. An exception to this width rule is applicable to sidewalks along the side of homes such as a connecting path to a service door of a garage. No sidewalks shall be painted. No unfinished sidewalks or sidewalks in which the internal rock is visible shall be allowed. On lots in which there is a light pole, a cement pad in an octagon format on its front half closest to the curb and rectangular shape on its back half shall be poured under and surrounding the base of the pole measuring six inches out from the pole's base. The cement pad shall be poured at the same time as the sidewalk and the back portion of the pad directly connected to the sidewalk to give a connected one-piece look to the pad with the sidewalk. Sidewalks shall be installed at the Owner's expense concurrent with the construction of the Living Unit. Lots adjacent to the rights of way shall be responsible for installing sidewalks one-half the distance of the middle of the right of way. The sidewalk, including any portion of the sidewalk in the adjacent right of way, shall be regularly maintained, and repaired as necessary by the Lot Owner at the Lot Owner's sole cost and expense. Any breakage, disintegration, separation, settling, or protuberance (due to tree trunk growth, etc) shall be repaired without delay so as to prevent injury to pedestrians. If after proper notice to the Lot Owner any and all such repairs are not effected by the time specified in the notice, the Association will repair the defective conditions at the expense of the Lot Owner, and also impose an Administrative Fee.

JJ. Driveways. All driveways shall be constructed with brick pavers. No rock, stone, cement or unpaved driveways are allowed. Driveway width should be kept to a minimum to create maximum greenery effect. For two car garages maximum width is eighteen feet for its entire length. The apron or three foot section of driveway adjacent to the garage may widen beyond these limits to the edge of the garage door but no further and shall widen using an arch border (not straight). The section of the driveway between the curb and front sidewalk may widen three feet in either direction also using an arch angle (not straight). For three car garages maximum driveway width is twenty feet in the section immediately beyond the front sidewalk and continuing fifteen feet. There after the driveway may widen out in an arch format to the edge of the garage door on the third garage but no wider. Landscaping with some earth mounding shall be placed adjacent to the driveway as it widens so as the driveway is partially hidden as viewed from the road. No driveway shall extend to the front of the house except at the doorway. Planter beds must be maintained adjacent to sides of front entry as discussed in greater detail under Article III, General Restrictions, Landscape design. No two homes may have standard straight driveways that are adjacent to each other; that is the driveways should be maximally separated to maintain maximum greenbelt street appeal. In any case no two straight driveways shall be any closer than 35 feet measured from the closest edge. Inside corner lots with minimal frontage shall place driveways such that it is maximally distant from adjacent driveways and due to limited lot frontage may not always be able to maintain the 35 foot minimum distance requirement of adjacent driveways. Centerline driveways will be allowable when there is a side entry garage and meet the 35 feet rule from any adjacent driveway measured from its nearest edge. Heavy landscaping should be used adjacent to the front end of the driveway as it turns into the garage so that much of the driveway is not visible. Circular driveways are an exception to the 35 foot rule but their use will be limited due the requirement for sixty- percent vegetation coverage in the front yard. When used the garage portion of the circular driveway shall not be adjacent to another home in which the garage portion of the driveway is on the same side. Circular drives maximal width is thirteen feet in that section removed from the garage entry. Circular drives should be so constructed that the center island is large and built up into a mound with heavy landscaping so that much of the driveway is not visible from the road. In no case shall standard driveway and sidewalk in front yard represent any more than 40% coverage of the property bounded by the frontage of the house, the side lot borders and the street on standard lots; corner lots will fulfill same rule using an 90 foot rectangle on the side of the home containing the driveway. Any deviation from the above rules might be allowed after architectural review provided that such alteration is, in the opinion of the Architectural

Review Board, beneficial and enhancing to the overall attractiveness of the development. In this regard circular drives that cannot meet the 60/40 rule for landscaping may be allowable on a case by case review.

KK. Pond Maintenance: Those lots on the pond own the land to the middle of the lake except for the front entrance lake and the front portion of the lake immediately west of the entrance intersection. All homeowners owning these lots will be responsible for the removal of garbage and alga blooms in their section of the lake. In addition in lakes completely enclosed to outside streets that have fountains or aeration systems those lot owners will be responsible for their pro rata portion for fountain maintenance and replacement if needed. Maintenance for fountains in the front lake and front portion of the lake immediately to west of entrance intersection shall be the responsibility of the entire community. Notwithstanding for the purposes of determining home owners dues, lot owners on the front lake shall be assessed as a lake lot owner.

LL. Streetlights: The community streetlights are owned by the Association and maintenance and replacement if necessary are the responsibility of the Home Owner's Association. Such repair and replacement shall be in keeping with the original design. There shall be no mixing and matching of light fixtures: if a light fixture needs replacement every effort shall be made to match existing designs.

MM. Completion of Construction: All construction and landscaping approved by the Committee shall be completed within nine months from the date of written approval. The committee may grant a greater period of time to complete said construction or may grant an extension of said nine month period on a case by case review when delay is caused by forces beyond the builder's control (ex. hurricane). If the construction is not completed within said nine-month period, the Association, at its option, may impose a one hundred dollar (\$100.00) per day fine after a thirty (30) day written notice. After sixty days written notice to Owner, the Association, in addition to the fine may complete construction of the Living Unit or demolish the Living Unit or other improvements and shall impose a lien on the Lot for the cost of completion of construction or demolition and the fine.

NN. Laundry: No clothes, sheets, blankets or other articles shall be hung out to dry in the side or front yards of any Lot.

OO. Preservation of common Areas: No person shall reconstruct, destroy, clear, open, reduce, remove, alter, modify or install any thing or improvement within, over or upon a common area, easement or preservation area without first obtaining written approval from the committee. No construction or excavation in the proximity of any preservation area, canal, bank, slope or swale shall be permitted which may substantially impair the stability of the character or drainage in said area.

PP. No water wells shall be dug in any Lot or on any Properties except for the purpose of irrigation of landscaping. All wells shall be deep wells (150 feet or greater) in an effort to help prevent iron and other minerals from leaving deposits, stains or other blemishes upon Living Units, driveways or sidewalks. Lot Owners shall be responsible for removing water stains from sidewalks, driveways and building structures. A purification system described under sprinklers shall also be required to help prevent staining.

QQ. Open burning: Open burning to reduce solid waste on any Lot is not permitted.

RR. Swimming Pools: A swimming pool may be constructed on a Lot within the appropriate setbacks and with the approval of the location and material by the Committee. Access to a pool from the boundaries of the Lot must be controlled from all directions by fencing and the residential structure. If pools are protected by screens,

such screens and their structures shall be approved by the Committee and be no higher than the fascia of the house roof. Swimming pools shall be only inground type and shall be constructed of, concrete, or concrete materials. The pool deck shall be no higher than four inches above the grade level of the first floor house pad. No overhead electrical wires shall cross the pool. All pool lights must be at least four feet from the pool. All pools must comply with all governmental regulations. No pool shall have an elevation exceeding two feet above the ground floor slab will be permitted. In cases where the backyard surrounding a pool is not fenced in, the pool itself must be enclosed with a fence not less than four feet in height or with a screen enclosure. The entrance gate to the back yard or the pool itself, as the case may be, is to be constructed with a selfclosing latch located at least forty inches above the ground. Pool screen enclosures and decking shall not extend beyond a line extending and aligned with the side of the house. Pool side setback shall be the side of the house or no closer than seven and one-half feet. Rear setback shall be five feet along Windsor Estates, fifteen feet along Oak Park and on lake front lots may be two (2) feet from the environmental easement line.

SS. Right to Inspect: The Homeowners Association Board of directors may at any reasonable time or times during periods of construction or alteration and within thirty days thereafter enter upon and inspect any Lot and any improvements thereon for the purposes of ascertaining whether the maintenance of such Lot and the maintenance, construction or alteration of structures thereon are in compliance with the provisions hereof: and neither said Board nor any of its agents shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

TT. Games and Play Apparatus. All games and play apparatus remaining outdoors for more than three days shall be located at the rear or side of the dwelling, so as not to be visible from any street. The Committee may make exceptions on an individual case by case basis. Basketball backboards are an example or an exception to the above rule. Any permitted basketball post shall be constructed of uniform black enamel, white, or clear black backboard. No obtrusive colors shall be allowed. The pole shall be a minimum of twenty feet from the street.

UU. Sewage Disposal: No individual sewage disposal system shall be allowed on any Lot.

VV. Air Conditioning: No window or wall air conditioning units shall be permitted in any improvements located within the subdivision. All air conditioning units shall be placed no further forward than 10 feet behind the front building line of the side of the residence with landscape or fence screening so as to make same not visible from the street (including side street in the case of a corner lot). No units shall be placed in the front or rear of the property. Consideration during design phase should be made to attempt to locate units as far as possible from bedroom windows of any adjacent house. Bushes, fence or wall shall be placed surrounding air conditioning units.

WW. Electrical Riser: The electrical riser above the electrical box shall be enclosed within the wall. It shall be located on a side wall. In no case shall it be on a front elevation, including both street facing sides of houses built on corner lots. A tall Prodocarpus bush shall be placed immediately in front of the electrical riser.

XX. Maintenance of Vacant Lots. All Lots shall be maintained in good appearance and free of overgrown weeds and rubbish. In the event any Lot is not so maintained then the Association after due notice to the property owner specifying a period of time to correct all noncompliance conditions, shall have the right to enter upon the Lot for the purpose of cutting and removing such overgrowth and achieving a good appearance of the Lot, and any expense thereof shall be charged to and paid by the Owner of the Lot. If not paid by the Owner within thirty days after being provided with a written notice of such charge, the same will become a lien upon the Lot until paid and may be collected by an action to foreclose said item.

YY. Building Type: All Lots shall be residential lots. One detached single family Living Unit not exceeding two stories in height plus a private enclosed garage for not less than two cars and no more than three cars shall be allowed.

ZZ. Unlicensed Vehicles: No unlicensed motorized vehicle, ATV, Go-cart, motorized boards or motorcycle shall be used on streets, sidewalks or common areas.

A. Motor Vehicle Repair: There shall be no repairs outside of the Living Unit garage, except emergency repairs, performed on any motor vehicle or on adjacent empty Lot or on any streets of the community properties.

B. No Trade, Business, Profession: No trade business, profession, or any other type of commercial activity shall be permitted on or upon any Lot that requires or leads to any vehicular traffic within Casabella other than by residents, or which involve any person or persons coming on to the properties in groups, or on more than an occasional basis: or that might result in any noticeable sound, smell or level of activity which is in any manner objectionable to other residents. Residents may conduct business from their living unit as long as the primary use of the living unit remains that of a single-family residence and the business activity is not evident from the exterior. No activity may be performed on the lots which is not permitted by and (where necessary) licensed by the appropriate governmental body.

C. Damage by Lot Owners including Builders: The owner of a Lot including builders shall be responsible for any expense incurred by the Association or the Declarant to repair or replace Common Area vegetation and topography, sodding on other lots, sprinklers systems, right of ways, swales, drainage facilities and utilities lines when such repair or replacement is necessary as a result of the negligent or intentional, errors or omissions of the Owner, his family, tenants, guess, agents or invitees. This shall specifically include repairs or replacements resulting from the actions of the Owner's contractor and subcontractors in constructing and improvements on the Owner's Lot. Any such expense if not paid upon demand shall be added to the Assessment to which the Owner's Lot is subject and shall be due and payable in the same manner as the Assessments provided in these covenants.

D. Initiation of Construction: Lots must begin construction within six months of purchase. Any lot that has not begun construction within six months must be sold back to the Declarant at a price fifteen- percent less than the original selling price. All costs for lot transfer are that of the lot owner. If lot owner sells lot to a third party the time clock on time to begin construction shall not be changed. If third party does not initial construction within the original designated time period they also would be required to sell lot back to the Declarant at a fifteen- percent depreciation price from the original purchase price. This policy is designed to prevent speculators from buying lots. The Declarant may make exceptions to these rules based on tragic unforeseen circumstances on a case by case review.

ARTICLE IV **ARCHITECTUAL STANDARDS**

A. General Architectural Standards: Each residence shall be reviewed by the committee on its own merit. Each home shall be custom with no two front elevations the same. Homes may have similar interior floor plans. Plans submitted to the committee must be of sufficient detail to determine if such features are included. Plan submittal forms are available from the Declarant. Casabella means beautiful home in Italian. Although other home

styles are allowed, the use of Mediterranean is encouraged. To set the tone for the development the first four homes near the entrance in either direction and on either side of the block will be required to have this style. A version of this style, called California Mission is encouraged by the Declarant. This style is not commonly seen in this area, and yet relatively inexpensive to reproduce. An example of this style is the Casabella amenity building and can be viewed at the Casabella website under views; [Http://www.casabellallc.com](http://www.casabellallc.com).

B. Elevations: Large expanses of vertical and horizontal flat wall planes are prohibited. Variety in building massing is encouraged. Setbacks and varied roof heights, which give interest, are encouraged. In keeping with a Mediterranean style the use of porches, loggias, balconies, trellises, arches and columns are encouraged. All windows in the front, side and back shall have some type of decorative treatment such as stucco bands, side shutters or be deep seated with rounded stucco corners. Roof soffits shall be decorative with either extra cedar layers, architectural designs or imitation stone made of foam. Since garage doors are generally not that attractive side entry garage entry is encouraged. To help encourage this, the front setback requirement for side entry garages has been relaxed established at twenty-five feet. Front three-car garages are particularly difficult to make attractive and therefore their use shall be severely restricted. For those in need of such space a split two car/one car side entry design is suggested, or a two car entry with back to back space for an extra car or storage might be considered. If a "straight-on" three car garage is accepted, it would require the use of varied setback or varied roof design and might only be accepted when it is shown that other alternative designs are not feasible. Examples of creative design for garages can be found at this website; <http://www.shapellnc.com> as directed above.

C. Garage doors: Since garage doors are a major component of the visual impact some effort is suggested to design some architectural detail not generally seen given to this portion of the house. Consideration for such things as recessing the garage door, small roofs, overhangs, side columns, color accent trim are suggested. The door itself might be of some other style than usually seen in this area with information on wood garage doors available from the developer. In no case may fiberglass garage doors be permitted. In the case of two car garage doors a singlewide 2-car garage door is recommended rather than two separate single car garage doors due to the greater width required for two separate doors. As already noted under elevations above, in the case of three-car garage homes consideration to have the third door setback from the other two with separate roof design is suggested.

D. Roofs: Only hip and gable roofs will be allowed for the main structure of the residence. The main roof on one-story homes shall have a minimum pitch of 6/12 and a maximum pitch of 12:12. On two story structures a minimum pitch of 5/12 will be required. Mansard, gambrel, and flat roofs are discouraged but will be considered on a case by case basis. Roofs over loggias, breezeways, verandas and porches may be at a lower pitch as long as they do not represent more than twenty percent of the total roof area.

E. Roof Finishes: Clay or cement tile will be allowed (30 year minimum warranty). Roofs must be maintained free of excessive dirt or fungal buildup. Each year during the committee's annual review for existing violations this particular issue will be scrutinized with vigor. Since white tile tends to show dirt and fungus their use in the development is discouraged. Any homeowner deciding to use this color nonetheless should be aware that maintenance cost of steam cleaning these color tile will be much higher than other colors due to the more frequent need.

F. Stacks Finished and Venting Materials: All roof stacks, flashing and metal chimney caps shall be painted to match the approved roof, wall or accent trim colors. In the design process, as best possible, all stacks and plumbing vents shall be placed on rear slopes of roof. The use of stucco under the soffits with small ventilation holes is encouraged, but when aluminum or vinyl venting materials are used under the soffits they shall be painted to

match the roof, wall or accent trim color. In no case shall they be left white unless the trim colors are also white. When gutters are used they also should be painted to match the trim colors and shall not remain white unless white is the trim color. Copper gutters are an exception and are encouraged.

G. Exterior finishes: All exterior finishes are allowed except certain artificial stone and brick products that will be disallowed on a case by case basis by committee.

H. Windows and Doors. The front entry doorway should be a focal point in design. The minimum height shall be seven feet. Transom tops with glass are recommended. Double doors or sidelights are also suggested. Doors and windows in any residence on any Lot shall comply with all of the following requirements: Exterior doors must be solid core doors that are 1 3/8 inches thick and must be secured by dead-bolt locks. All dead-bolt locks must lock with a minimum bolt throw of 1 inch that penetrates metal strike plate mounted 3-inch screws. Dead-bolt locks must secure metal doors. If glass is within 40 inches of a locking device, the lock must be key operated from both sides. Double doors must have the inactive door secured by header and threshold bolts that penetrate metal strike plates, and in the case of glass located within 40 inches of the header and threshold bolts, the inactive door must have the bolts flush-mounted in the edge of the door. Sliding glass doors must be secured by secondary locking devices to prevent lifting and prying. Dutch doors must have concealed flushbolt locking devices to interlock upper and lower halves and must be secured by a dead-bolt lock. Wood windows with vinyl or aluminum exterior cladding are recommended but not required. Aluminum windows are permitted but must be painted at the factory. Windows permitted include casement, fixed glass, single or double hung, bay windows, pivoting or sliding. No awning or jalousie windows will be allowed. The minimum header height of the windows shall be seven feet four inches above finished floor on the first level. No reflective glass will be allowed in the exterior facades. Windows must be secured by auxiliary locking devices (screws, wooden dowels, pinning devices, or key-operated locks). Windows and doors must be clear of exterior shrubbery.

I. Colors: The most delicate compliment to the architectural expression is color. Colors should be limited to mute pastel colors. The use of bright and glossy colors is prohibited. All colors are subject to approval by the committee.

Residential Restrictions:

A. Residential Use. All Lots shall be improved and used solely for residential purposes inclusive of a garage, fencing and such other Improvements as are necessary of customarily incident to residential use. No Owner shall occupy or use his Lot or any Improvements constructed thereon, or permit the same or any part thereof to be occupied or used for any purposes, including religious, other than as a private residence for the Owner, his family and guests. All Lots within the Property shall be used and improved solely for single family residential purposes, with no more than one (1) residential dwelling unit per Lot. Anything herein to the contrary notwithstanding, any Lot may be used or improved for greenbelt, open space and/or drain field purposes. No Improvement may be constructed upon any Lot that would unreasonably obstruct the view from other portions of the Property, and the positioning of all Improvements upon Lots within the Property is hereby expressly made subject to Architectural Review Board review. The ARB may, but shall not be required to, prevent or allow the construction of a proposed Improvement based upon the effect it will have upon the view from any particular Lot. The ARB may consider the effect the Improvement will have on the Property as a whole, it being expressly understood that neither the ARB nor the member thereof shall be liable to any Owner in monetary damages or otherwise due to the construction of

any Improvement within the Property or the creating thereby of an obstruction to the view from such Owner's Lot or Lots.

B. Building Height. No Improvement greater than thirty-five (35) feet in height may be constructed on any Lot without the prior written approval of the ARB or local established code. For purposes of this paragraph, height shall be measured from a point 22 inches above the grade of the road, which is the standard finished grade level for slab placement.

C. Building Materials; Dwelling Size. All single family dwellings shall be of recognized standard construction quality, and all first level exteriors (exclusive of doors, windows, and similar openings) shall be constructed of one hundred percent (100%) masonry. Masonry includes cinder block; ceramic tile, brick; rock and other materials commonly referred to as masonry. Unless an exception is granted, all single family dwellings shall contain not less than two thousand six hundred (2,600) square feet of enclosed living space for dwellings constructed on lots in all cases exclusive of porches (open or covered), decks, garages, or carports. Two-story residences minimum size is 2800-sq. ft. with 1500 sq. ft. on the first floor. The method of determining the floor area of proposed Living Units, structures, or additions or alterations on existing Living Units or structures, shall be by multiplying the outside horizontal dimensions of the buildings or structures at each floor level. Garages, unglazed porches, patios, terraces shall not be taken into account in calculating the square footage. Each residence shall include at least a two vehicle enclosed attached garage. Further, that all single family dwellings shall contain or be constructed as follows: 1.) That no two homes which shall be constructed will have the same or very similar elevation. 2.) No two adjacent homes shall have the same color brick, type of brick, or same tile or shingle or shack. 3.) No two adjacent homes shall have the same stucco paint color.

D. Setback Requirements. No main section of the house shall be located or erected less than thirty (35) feet from the nearest point of the front lot line. Garages and privacy walls may be 30 feet from the nearest point of the front lot line. Side-facing garages may be 25 feet from the front property line. No building shall be located or erected less than seven and one-half feet (7 and one half feet) from the side property line. No non lake side house shall be located closer than twenty (20) feet from any rear property line. Lake side houses on corner or adjacent to corner lots shall not build closer than 20 feet from the environmental easement line. On retention lots not adjacent to corner lots, no solid wall of a house may extend further than 20 feet from the environmental easement line (EEL), at the rear corners of the house but beginning at this point the house may extend to within two (2) feet of the EEL on a line angled at 45 degrees from the side setback line. An outdoor porch with covered roof is allowed within two (2) feet of the EEL. To protect sight views, no solid structure taller than four (4) feet shall be allowed in this area, including solid walls, hedge rows, fences, outdoor grills, sinks or any other structure. Notwithstanding the foregoing, in respect to lots having irregular shapes, such building must be situated at a mean distance of at least seven and one half (7-1/2) feet each side property line of such Lot, but in no event closer at any one point than seven and one-half (7-1/2) feet from such side property lines. Furthermore, on Lots having irregular shapes, such structure may be constructed as near as twenty (20) feet from the rear of the Lot. For purposes of these covenants, the eaves of buildings shall not be deemed to be part of a building or structure, but steps and porches shall be deemed to be a part of a building or structure. This Section shall not be construed to allow any building or structure to encroach upon another Lot. Corner inside lots shall define rear 20 foot and 7 and one half side setback arbitrarily but in no case shall 7 and one half setback be usable for both rear and side lot setbacks.

E. Grading, Drainage: Each lot shall be filled and graded to elevations as defined in this document or as designed by Lee engineering and as approved by Brevard County Engineering Department. Drainage of each lot shall be accomplished by grading Lots so runoff from one Lot does not drain onto another Lot. Sidewalks,

landscaping mounds, or other structures constructed shall be so graded as not to impound water on the Lot or divert runoff to another adjacent lot. Sidewalks shall be slanted toward the street to assure proper drainage. The property line side of sidewalk shall be a minimum of two inches higher than the back of curb elevation and blend in smoothly with the finished sod grade of each lot.

F. Sprinklers. All homeowners shall have irrigation systems in place. Well system must use a filtration system to avoid iron accumulation from well water (information on required system available from the Declarant). Lots facing retention ponds may use lake water provided that such a system is built such that pipes do not become exposed during dry season. Any such system that becomes exposed or otherwise unsightly will need to be cured within thirty days or the homeowners association reserves the right to correct and charge the homeowner as outlined by standard procedure outlined elsewhere in this document. To maximize the growth rate of curb oaks, two flood bubblers shall be placed on either side of the oak tree approximately one foot from the trunk of the tree.

G. Environmental easement tract: the individual homeowners must maintain the environmental easement tract behind retention facing lots. This includes replacement of sod at the time of purchase with standard sodden, placement of an irrigation system and mowing of lawn and maintenance of any other landscaping if present.

H. Insulation: The minimum insulation for living units is R-30 for roofs and walls; R-11 for block construction and R-19 for any frame construction.

I. Roof Overhang: Overhang depths shall be a minimum of six inches and a maximum of four feet. On case by case basis there may be deviation from this rule as approved by committee.

J. 1986 Coastal Construction Code: Although not required, the ARB recommends that the home be constructed to meet the 1986 coastal construction code for all homes within 5000 feet of the ocean, with all its revisions for 100 year storms. This will ensure Owners the structural integrity of their investments. Consideration should be made to place decorative covered screw attachments surrounding window frames such that hurricane shutters may be attached with ease and without destroying the stucco finish. "Glue down" for roof tile installation is highly recommended.

ARTICLE V

CASABELLA SUBDIVISION HOMEOWNERS ASSOCIATION

A. Organization. The Declarant has, upon date of filing of all necessary and proper paperwork as required by Brevard County, Florida for development of the CASABELLA SUBDIVISION, caused the formation and incorporation of the Association as a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Articles and Bylaws or in this Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. The Association's

temporary principal office shall be located at 1900 South Harbor City Blvd., Suite 221, Melbourne, Florida, and at some future place as established by the Association's Board of Directors.

B. Membership. Any person or entity upon becoming an Owner shall automatically become a Member of the Association. Membership shall be appurtenant to and shall run with the property interest which qualifies the Owner thereof for membership, and membership may not be severed from, or in any way transferred, pledged, mortgaged or alienated except together with the title to the said property interest.

C. Voting Rights. The right to cast votes, and the number of votes which may be cast, for election of directors to the Board on all other matters to be voted on by the Members shall be calculated as follows:

(A) The Owner, whether one or more (including Declarant) of each Lot within the Property shall vote for each Lot so owned.

(B) In addition to the votes to which Declarant is entitled by reason of Subparagraph (A) of this Section, for every such vote Declarant shall have three (3) additional votes, until such time as the votes described in Subparagraph (A) this Section, owned by Owners other than the Declarant, total in the aggregate sixty percent (60%) of the total number of votes outstanding under Subparagraph(A). Thereafter Declarant shall have only the votes, if any, to which it is entitled under Subparagraph (A) of this Section. Voting rights shall be suspended for any member who is not a Member in "Good Standing" and such suspension will continue until such time as all delinquencies and the conditions associated with such delinquencies are remedied. Each member shall be entitled to vote at meetings of the Association's members and shall be known as a Voting Member: provided that if one Member owns more than one Lot, he shall be entitled to a vote for each Lot owned by him: and provided further that if a Lot is owned of record by more than one person or entity, the Owners of the Lot shall be entitled collectively to but one vote by virtue of that Lot and shall designate a Voting Member in the manner provided in the Association's Bylaws, and, if the Lot is owned by a corporation, partnership, or trust, the Owner shall designate a Voting Member in the manner provided in the Association's Bylaws.

D. Powers and Authority of the Association. The Association shall have the powers of a Florida nonprofit corporation, subject only to any limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts, which may be necessary or proper for, or incidental to the exercise of any of the express powers granted to it by the laws of Florida or this Declaration. Without in any way limiting the generality of the two preceding sentences, The Association, and the Board acting on behalf of the Association, shall be responsible for the operation and maintenance of the Community Properties and for the enforcement of the provisions of this Declaration. The Association shall have the following powers and authority at all times:

(A) CASABELLA SUBDIVISION Rules and Bylaws. To make, establish and promulgate, and in its discretion to amend or repeal and re-enact, such CASABELLA SUBDIVISION Rules and Bylaws, not in conflict with this Declaration, as it deems proper to address any and all aspects of its functions.

(B) Insurance. To obtain and maintain in effect policies of insurance which, in the opinion of the

Board, are reasonably necessary or appropriate to carry out Association functions.

(C) Records. To keep books and records of the Association's affairs.

(D) Assessments. To levy Assessment as provided in Article VII below.

(1) Assessments shall also be issued for the maintenance and repair of the surface water or stormwater management systems including but not limited to work within retention areas, drainage structures and drainage easements. The owner of said Lot shall maintain swales within individual lots.

(E) Right of Entry and Enforcement. To enter at any time in an emergency, or in a non-emergency, at reasonable times and in a reasonable manner, after ten (10) days written notice, without being liable to any Owner, upon any Lot and into any Improvement thereon for the purpose of enforcing the CASABELLA SUBDIVISION Residential Restrictions, and the expense incurred by the Association in connection with the entry upon any Lot and the work conducted thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be a lien upon the Lot entered on and Improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article VII hereof for regular and special Assessments. The Association shall have the power and authority from time to time, in its own name and on its own behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the CASABELLA SUBDIVISION Residential Restrictions. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or shall never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, its successors or assigns. The exact actions of the Association upon learning of a violation shall be as follows:

1.) The Association shall issue the Owner a written notice either by certified return receipt mail or posting on the property requesting the Owner to cure the violation and advising the Owner that a fine will begin to accrue if the violation is not cured within 30 days of receipt of the notice and that the Owner's Lot may be subject to a lien for such fine together with any costs expended by the Association for notice, investigation, attorney's fees and cost and curative actions, the Association may take, including but not limited to demolition and or storage costs for any construction or items placed on a Lot, or repair of existing common ground structures in violation of this Declaration.

2.) Should the violation not be cured within 30 days of receipt of said written violation, a fine shall automatically begin to accrue and continue until the violation is cured. The amount of the fine at the time of filling this Declaration shall vary from 50 to 100 dollars per day based on violation severity as determined by the Association. This amount may be increased by action of the Board without vote if the Directors feel such increase is indicated.

3.) If despite the fine no cure has occurred then the Association has the authority to cure any violation through whatever means it deems necessary and the expenses thereof shall be chargeable to the Owner of the Lot or Lots on which or in connection with the violation has occurred. Said expenses shall be payable forthwith and upon demand. In the event the association has expended funds in connection with the curing such violation, then and in such event the funds so expended shall become as assessments upon the Lot or Lots enforceable as provided herein for unpaid assessments.

(F) Legal and Accounting Services. To retain and pay for Legal and accounting services

necessary or proper for the operation of the Association.

(G) Employees. To engage such employees as may be reasonably necessary in the management of the Association and the performance of its duties.

E. Landscape and Maintenance.

1.) The Association shall be authorized to landscape, maintain and repair easements, right-of-way, common areas, entry ways, sidewalks, paths, trails, retention ponds, lakes and other areas of the Property, as appropriate.

2.) The Association shall bear ultimate responsibility for the maintenance, operation and repair of the surface water or storm water management system. Maintenance of the surface water or stormwater management shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or storm water management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the surface water or storm water management system shall be as permitted or, if modified, as approved by the St. Johns River Water Management District. On some Lots there will be swales or other stormwater system in place, which are to be constructed and maintained by the individual lot owners. In any case in which the Lot Owner fails to perform necessary construction or maintenance then the Association bears the responsibility to perform this action. The Association may take legal recourse to recoup any expenses from Lot Owner for creation or maintenance of any storm water system located on Owner's Lot.

F. Common Areas.

(A) Subject to and in accordance with this Declaration, the Association, acting through the Board, shall have the following duties:

(1) To accept, own, operate and maintain all Common Areas which may be conveyed or leased to it by Declarant, together with any Improvements of any kind or purpose located in said areas; and to accept, own, operate and maintain all other property, real and personal, conveyed or leased to the Association by Declarant; and to maintain in good repair and condition all lands, Improvements, and other Association property owned by or leased to The Association, whether by Declarant or by other Persons.

(2) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by or leased to the Association, to the extent that such taxes and assessments are not levied directly upon individual Members of the Association. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.

(3) To execute mortgages, both construction and permanent, for construction of Improvements on property owned by or leased to the Association, and to accept lands in Common Areas, whether or not improved, from Declarant subject to such mortgages or by assuming such mortgages. Financing may be effected through conventional mortgages or deeds of trust, the issuance and sale of development or other bonds, or in any other form or manner deemed appropriate by the borrower, whether Declarant or the Association. The mortgage or other security interest given to secure repayment of any debt may consist of a first, second or other

junior lien, as deemed appropriate by borrower, whether Declarant or the Association, on the Improvement to be constructed, together with such underlying and surrounding lands as the borrower deems appropriate. The debt secured by the revenues generated by dues, use fees, assessment of Members, or otherwise, or any combination thereof, as may be deemed appropriate by Declarant of the Association, as the case may be, but subject to the limitations imposed by this Declaration.

(B) In addition to, and not in limitation of, the power and authority of the Association as set forth in Article V, Section D within the body of this Declaration (and any future amendments as related thereto), the Association, acting through the Board, shall have the power and authority:

(1) To grant and convey portions of Association property, including fee title, leasehold estates, easements, right-of-way, and/or mortgages, to any person or entity for the purpose of constructing, erecting, operating or maintaining the following:

(a) Parks, parkways or other recreational facilities or structures;

(b) Roads, streets, walks, driveways, trails and paths;

(c) Lines, cables, wires, conduits, pipelines or other means of providing utilities;

(d) Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines;

(e) Any similar public, quasi-public or private Improvements.

(2) To pay for water, sewer, garbage removal, landscaping, gardening and all other utilities, services and maintenance for the property of the Association.

(3) To pay for any other services necessary or proper in the performance of Association functions, and to pay for any other taxes or assessments that the Association of the Board is required to secure or to pay for pursuant to applicable law, the terms of this Declaration, of the Articles of Bylaws of the Association.

(4) To own and operate any and all types of facilities for both active and passive recreation.

(5) To construct new Improvements or additions to Association properties, subject to the approval of the Architectural Review Board as required in this Declaration.

(6) To enter into contracts with Declarant and other persons, on such terms and provisions as the Board shall determine, to operate and maintain any of the Common Areas or to provide any service or perform any function on behalf of Declarant or the Association in connection with the purposes of the Association.

(7) To acquire and own and to dispose of all manner of real and personal property, whether by purchase, grant, lease, gift or otherwise.

G. The Declarant. As the agent of the Association, may enter into one or more agreements with any governmental agency, with respect to the landscaping and maintenance of portions of street right of way, or the dedication of any drainage basin, park or other common area within the property for municipal maintenance. The Association shall accept, without further requirement or documentation, said agreement and the requirements and benefits associated therewith, for any agreement reached by the Declarant.

H. Indemnification. The Association shall indemnify any director, officer, or member of a committee duly appointed pursuant to the Articles or Bylaws who was, is or is threatened to be made a named defendant or respondent in any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrate, or investigative, any appeal in such an action, suit or proceeding, and any inquiry or investigation that could lead to such an actions, suit, or proceeding (hereinafter a "Proceeding") by reason of the fact that such person is or was a director, officer or member of such a committee of the Association, against all judgments, penalties (including excise and similar taxes), fines, settlements, and reasonable expenses actually incurred by the person in connection with any such effect from time to time.

ARTICLE VI

ARCHITECTURAL REVIEW BOARD

A. Membership of Architectural Review Board. The Architectural Review Board shall consist of not more than three (3) voting members and such additional nonvoting members serving in an advisory capacity ("Advisory Members") as the Voting Members deem appropriate. Only one (1)-voting member of the Architectural Review Board may not have an ownership interest in a Subdivision lot.

B. Action by Architectural Review Board. Items presented to the Architectural Review Board shall be decided by a majority vote of the Voting Members in private session.

C. Advisory Members. The Voting Members may from time to time designate Advisory Members.

D. Term. Each member of the Architectural Review Board shall hold office until such time as he or she has resigned or has been removed or his or her successor has been appointed as provided herein.

E. Declarant's Rights of Appointment. Prior to the Transition or Turnover date as defined herein, Declarant, its successors or assignees shall have the right to appoint and remove all Voting Members of the

Architectural Review Board, which persons need not be drawn from appointment, or any portion thereof, to the Board by written instrument before such date.

F. Adoption of Rules. The Architectural Review Board may adopt such procedural and substantive rules, not in conflict with this Declaration, as it deems necessary or proper for the performance of its duties, including but not limited to a building code, a housing code, and other similar codes.

G. Review of Proposed Construction. Whenever in this Declaration the approval of the Architectural Review Board is required, the Architectural Review Board shall have the right to consider all of the Drawings and Specifications for the Improvement or proposal in question and all other facts, which, in its sole discretion, are relevant. Except as otherwise specifically provided herein, prior to the commencement of any construction of any Improvement on the Property or any portion thereof, the Drawings and Specifications therefor shall be submitted to the Architectural Review Board, and construction thereof may not commence unless and until the Architectural Review Board has approved such Drawings and Specifications. There will be a two hundred and fifty dollars (\$250.00) fee for this review and a seven hundred and fifty dollars (\$750.00) security deposit required. A builder contract must be signed. A design review procedure and application is available from the committee and must be completed and accepted prior to construction. Until receipt by the Architectural Review Board of any information or document deemed necessary by the Architectural Review Board, it may postpone review of any Drawings and Specifications submitted for approval. Upon receipt of all necessary information, the Architectural Review Board shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform such other related duties assigned or authorized by this Declaration, including at its option inspection of construction in progress to assure its conformance with previously approved Plans and Specifications. The Architectural Review Board shall have the express authority to perform fact-finding functions hereunder and shall have the power to construe and interpret any covenant herein that may be vague, indefinite, uncertain or capable of more than one construction. The Architectural Review Board may, in its review of Drawings and Specifications and such other information as it deems proper, consider whether any proposed Improvement upon a Lot would unreasonably obstruct the view from any other portion of the Property. No Improvement shall be allowed on any Lot which is of such size or architectural design or involves the use of such landscaping, color schemes, exterior finishes and materials and similar features as to be incompatible with residential development within the Property and the surrounding area. The Architectural Review Board shall have the authority to disapprove any proposed Improvement or new home design. The Architectural Review Board will use as a general guide the restrictions set forth in the preceding sentence and these covenants but may make arbitrary and binding decisions based on any other information available to help make its decision. On some oversized or otherwise key lots the restrictions applied for new home design may differ substantially from those outlined in the covenants when in the opinion of the ARB such restrictions are necessary to enhance the overall theme of the development. The decision of the Architectural Review Board shall be final and binding and will not be subject to debate. In some instances the reason for denial may not be necessarily apparent and need not be disclosed by the ARB. The Architectural Review Board shall not be responsible for reviewing any proposed Improvement, nor shall its approval of any Drawings and Specifications be deemed an endorsement, from the standpoint of structural safety, engineering soundness, or conformance with building or other codes or to its authorship. Any home design approved later found to be in violation of existing Casabella bylaws or other governmental agency regulation shall not constitute evidence that any future home must also be given the same right of such design or exception to the rules.

H. Actions of the Architectural Review Board. The Architectural Review Board may, by resolution unanimously adopted in writing, designate one or two of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Review Board. In absence of such designation, the vote of a majority of all the members of the Architectural Review Board taken without a meeting, shall constitute an act of the Architectural Review Board.

I. No Waiver of Future Approvals. The approval or consent of the Architectural Review Board of any Plans and Specifications for any work done or proposed, or in connection with any other matter requiring the approval or consent of the Architectural Review Board, shall not be deemed to constitute a waiver of any right to withhold

approval or consent as to any other Plans and Specifications, or other matter whatever, subsequently or additionally submitted for approval or consent by the same or a different person.

J. Work in Progress. The Architectural Review Board and /or the Declarant may exercise the option to inspect all work in progress to insure compliance with approved Plans and Specifications.

K. Nonliability of Architectural Review Board Members. Neither the Architectural Review Board nor any member thereof shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Architectural Review Board 's duties under this Declaration unless due to the willful misconduct or bad faith of the Architectural Review Board or its members, as the case may be. Neither the Architectural Review Board nor any member thereof shall be liable to any Owner due to the construction of any Improvements within the Property, or the creation thereby of any obstruction of the view from such Owner's Lot or Lots.

L. Address. Drawings and Specifications shall be submitted to the Architectural Review Board in care of the Declarant, initially in care of Casabella LLC, 1900 South Harbor City Blvd., Suite 221, Melbourne, Florida, 32901 or in care of such person at such other address as may be designated by Declarant or the Architectural Review Board, as the case may be, from time to time.

M. Failure to Act. In the event the Architectural Review Board or its designated representative fails to approve or disapprove any Plans and Specifications within thirty (30) days after the same have been submitted to it, complete with all other information requested by the Architectural Review Board in connection with such submission, approval shall be assumed.

N. Variances. Notwithstanding any other provision of this Declaration, in order to prevent undue hardship upon the Owner or Owners of any individual Lot or Lots upon the Property, variance from any restrictions set out in this Declaration may be granted by a unanimous decision of the Architectural Review Board in a written instrument to be duly acknowledged, if and when such a variance shall ever be granted.

O. Governmental Agency Approval. Nothing in this Declaration shall be construed to relieve any Owner from securing such approvals, certificates and/or permits as may be required by law in connection with the construction of any Improvements on any Lot.

P. Relationship with Association. The Architectural Review Board has been created pursuant to this Declaration to perform certain functions specified herein relating to the review and approval of Plans and Specifications for Improvements built on the Property. The Architectural Review Board does not exercise the authority of the Board, and shall not do so unless and until (I) the Board shall have duly appointed a majority of Board members to the Architectural Review Board, and (ii) the Board shall by unanimous resolution, duly recorded in the records of the Association, make the Architectural Review Board a committee of the Board.

Q. Enforcement of Covenants and Deed Restrictions: The committee shall inspect construction of homes during the process of construction. Noncompliance with the covenants and deed restrictions, or the reconstruction agreement or with the promulgated "Builders Rules" shall be corrected without delay. Any violation which would affect the community properties or other private property or which may cause risk to the safety of the community or

the environment shall be corrected immediately. Failure to adhere to the rules and regulations shall cause for the forfeiture of all or part of the construction deposit, at the discretion of the committee. The builder may appeal such forfeiture to the Board which shall, by majority vote, sustain, modify or overturn forfeiture. In addition, a Notice of Deficiency will be mailed to the property owner and the builder/contractor. In addition to loss of builder deposit homeowner/contractor shall be responsible for the cost of any deficiencies so noted by the Committee. In cases in which homeowner/contractor refuse to comply, the ARB may place a lien on the property for estimated cost necessary to bring deficiency into compliance. In situations of last resort, the ARB may hire its own subcontractors to finish or complete or correct any deficiencies or to remove any safety hazard or correct issues regarding wetland intrusion with the cost of such correction the responsibility of the homeowner/contractor.

R. Annual Compliance Report: The ARB will annually evaluate all properties in the subdivision for continued compliance to the Covenants and Restrictions. This evaluation will be conducted in the October-December calendar quarter of each year and the results thereof will be documented and a report of the noted deficiencies shall be made by the ARB and presented to the Board of Directors of the Homeowners association at the January meeting. Notice of non-compliance will be mailed to the Lot Owners who will have thirty days to correct the deficiency or to request a variance from the Board of Directors. The ARB shall make recommendations to the Board relative to the approval/rejection of any resulting variance requests submitted. In the event the request is rejected, the Lot Owner shall correct the non-compliance within thirty days of receipt of notice of rejection. After the period for corrective action has expired a report will be given by the ARB to the Board. After review the Board may place a lien on the property to recover the amount necessary to bring into compliance and noted deficiency and or may threaten a fine to the homeowner in an effort to force the Owner to comply.

ARTICLE VII **ASSESSMENTS**

A. The Association may from time to time levy Assessments against each Lot whether or not improved. The level of Assessments shall be equal and uniform between all Lots except for lake lots which shall be assessed an additional One Hundred Dollars (\$100.00) and, provided, however, that no Assessments hereunder shall be levied against Declarant.

B. Where the obligation to pay an Assessment first arises after the commencement of the year of other period for which the Assessment was levied, the Assessment shall be prorated as of the date when said obligation first arose in proportion to the amount of the Assessment year or other period remaining after said date.

C. Each unpaid Assessment together with such interest thereon and costs of collection thereof as hereinafter provided, shall be the personal obligation of the owner of the Lot against which the Assessment falls due, and shall become a lien against each such Lot and all Improvements thereon. The Association may enforce payment of such Assessments in accordance with the provisions of this Article.

D. Maintenance Fund. The Board shall establish a maintenance fund into which shall be deposited all monies paid to the Association and from which Disbursements shall be made in performing the functions of the Association under this Declaration. The funds of the Association must be used solely for purposes authorized by this Declaration, as it may from time to time be amended.

E. Regular Annual Assessments. Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under this Declaration, including but not limited to the cost of maintenance of all entry ways, landscaping, greenbelts, common areas, median strip, and right-of-way maintenance, the cost of enforcing the CASABELLA SUBDIVISION Residential Restrictions, and a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's funds. Assessments sufficient to pay such estimated expenses shall then be levied as herein provided, and the level of Assessments set by the Board shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time, and from time to time, levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its discretion.

F. Projected expenses projected revenues, proposed assessments and existing funds shall always be available for the review by all members. Should any members desire that their regular annual assessments be increased or decreased, they must so advise the Board in writing and request a special meeting of all members to consider such changes. It is important that the members participate in the determination of annual assessments as the Declarant shall not be held accountable to the Homeowners Association after the "turnover of control" for any perceived reserve deficiencies for regular annual assessment.

G. Special Assessments. In addition to the regular annual Assessments provided for above, the Board might levy special Assessments whenever, in the opinion of the Board, such special Assessments as are necessary to enable the Board to carry out the mandatory functions of the Association under the CASABELLA SUBDIVISION Restrictions. The amount and due date of any special Assessments shall be at the reasonable discretion of the Board.

H. Owner's Personal Obligation for Payment of Assessments. The regular and special Assessments provided for herein shall be the personal and individual debt of the owner of the Lot covered by such assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the owner of the Lot shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from due date thereof (or if there is no such highest rate, then at the rate of 1½ % per month), together with all costs and expenses of collection, including reasonable attorney's fees. In addition, the Owner of any Lot in which an assessment is overdue by 30 days will be required by the Board to pay the Association a late charge of ten dollars (\$10.00) or five percent (5%) of the delinquent installment, whichever is greater.

I. Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article not paid, shall, together with interest as provided in Article VI Section U within in the body of this document and any amendments hereof and the cost of collection, including such Assessment, which shall bind such lot in the hands of the Owner of the Lot covered by such lien as provided, thereupon become a continuing lien and charge on the Lot covered by such Assessment, which shall bind such lot in the hands of the Owner, and such Owner's heirs, devisees,

personal representatives, successors or assigns. The aforesaid lien shall be superior to all other liens and charges against the said Lot, except only for tax liens and all sums unpaid on a first mortgage lien or first deed of trust filed of record, securing in either instance sums borrowed for the acquisition or improvement of the Lot in question. The Association shall have the power to subordinate the aforesaid Assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination shall be effectuated by an officer of the Association, duly authorized by the Board. To evidence an Assessment lien, the Association may prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien, and a description of the Lot. Such notice shall be signed by an officer of the Association duly authorized by the Board, and shall be recorded in the office of the County Clerk of Brevard County, Florida. Such lien for non-payment of Assessments shall attach with the priority above set forth from the date that such payment becomes delinquent, and may be enforced subsequent to the recording of a notice of Assessment lien as provided above, by the foreclosure of the defaulting Owner's Lot by the Association in like manner as a mortgage on real property, or the foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or non-judicial, the Owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred by the Association. The Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the association shall report to said Mortgagee the status of any Assessments relating to the Mortgagee's mortgage and remaining unpaid for longer than thirty (30) days after due. Any person or entity that acquires title to a Lot as a result of a foreclosure of an Institutional Mortgage or bona fide first mortgage of record, or that accepts a deed to a Lot in lieu of foreclosing an Institutional Mortgage or bona fide first mortgage of record, shall not be liable for the share of periodic or special assessments pertaining to that Lot or chargeable to the former owner thereof which became due prior to its acquisition of titles unless such share is secured by a claim of lien for periodic or special assessments recorded prior to the recording of the mortgage in question. Except as expressly provided herein above, every grantee in a voluntary conveyance of a Lot shall be jointly and severally liable for all unpaid periodic or special assessment against the grantor for his share of the assessments up to the time of the conveyance. Nothing contained herein to the contrary notwithstanding, each and every Owner, including purchasers at a judicial sale, shall be liable for all periodic or special assessments coming due during the period of ownership of a Lot regardless of how his title was acquired.

J. Attorney's Fees and The Cost of Enforcement: Reasonable attorneys' fees incurred by the Association or its agent to the collection of an unpaid or special assessment or the enforcement of any lien (including attorneys' fees in connection with any review of a judicial or administrative proceeding by appeal or otherwise), together with all sums advanced and paid by the Association or its agent of taxes and payments on account of superior liens, or

encumbrances that may be required to be advanced by the Association or its agent in order to preserve and protect its lien, shall be payable by the Owner liable for the assessment and secured by the Association's lien.

K. Assessments shall also be used for the maintenance and repair of the surface water or stormwater management systems including but not limited to work within the retention areas, drainage structures and drainage easements.

L. The fiscal year of the homeowners association shall be July 1 through June 30 of each year. A budget committee will be appointed in July of each year, to determine the estimated the budget for that year to be assessed to the homeowners.

M. There will be a fee for transfer of ownership in the amount of \$150.00. This fee will be collected at

closing of transfer of title and paid to the homeowners association manager.

ARTICLE VIII **EASEMENTS**

A. Reserved Easements. All dedications, limitations, restrictions, and reservations shown on any plat covering all or any portion of the property and all grants and dedications of easements, rights-of-way, restrictions, and related rights made by Declarant prior to the Property becoming subject to this Declaration, are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed on behalf of Declarant conveying any part of the property. Declarant reserves the right to make changes in and additions to the said easements and rights-of-way for the purpose of most effectively, efficiently and economically developing and marketing the property. Further, Declarant reserves the right, without the necessity of the joinder of any owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, common areas, rights-of-way and easements for public utility purposes (including, without limitation, gas, cable, water, electricity, telephone and drainage), in favor of any person or entity, along and on either or both sides of any Lot line, any such easement having a maximum width of seven and one-half (7-1/2) feet on each side of such Lot line.

B. Installation and Maintenance. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, if any, no structure or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities; or in the case of drainage easements, which may change the direction of flow of water through drainage channels in such easements. The easement area of each Lot, if any, and all Improvements in such area shall be maintained continuously by Owner of the Lot, except for those Improvements for which a public authority or utility company is responsible. Neither Declarant nor any utility company using the easements herein or referred to shall be liable for any damages done by them or their assigns, agents, employees, or servants to shrubbery, streets or flowers or other property of the Owners situated on the land covered by said easements.

C. Surface Areas. The surface of easement areas for underground utility services may be used for planting of shrubbery, trees lawns or flowers. However, neither the Declarant nor any supplier of any utility service using any easement area shall be liable to any Owner or to the Association for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity reasonably relating to the construction, maintenance, operation or repair of any facility in any such easement area.

D. Certain lots may require Drainage Swales or other drainage structures for the purpose of managing and containing the flow of excess surface water at the time of initial development or possibly, if any, found upon such lot from time to time in the future after it is in use. Each lot owner, including builders, shall be responsible for the creation, maintenance, operation and repair of the swales or other drainage structures on the lot if needed by initial plan design or determined by the lots future use. Maintenance, operation, and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage,

conveyance or other stormwater management capabilities as permitted by the St. Johns River Water Management District. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the Drainage Swale shall be authorized and any damage to any Drainage Swale, whether caused by natural or human-induced phenomena, shall be repaired and the Drainage Swale returned to its former condition as soon as possible by the Owner(s) of the Lot(s) upon which the Drainage Swale is located. The Declarant shall not be responsible for the maintenance, operation or repair of said swales for a residential lot. If the lot owner refuses to comply with the needs regarding the above issues then the Association may have easement rights to comply with above drainage needs. The Association may then seek financial relief by legal recourse from Lot owner for any expenses incurred in compliance with creation or maintenance of swales or any other drainage devices that are deemed necessary by the ARB or any other governmental agency.

E. Access and Drainage Easements. The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District.

F. Any amendment to this Declaration, which alters any provisions to the surface water or stormwater management system, including the water management portions of the common areas, must have the prior approval of the St. Johns River Water Management District.

G. Blanket Easement. An easement is hereby retained in favor of the Association over all Lots and the Common Area for the purpose of enforcing the CASABELLA SUBDIVISION Residential Restrictions in accordance with Article V, Sections E and F and with any and all portions of this document so relating, and for the construction of a common cable television system, a common sprinkler system, maintenance of landscaping, or any other item for the common benefit of the Owners. An easement is further granted for the purpose of repairing and maintaining any such system so constructed. An entry upon any Lot or the Common Areas to effectuate the foregoing purposes shall not be deemed as trespass.

ARTICLE IX **CONSERVATION EASEMENTS**

Section 1 – Conservation Easement Areas.

Pursuant to the provisions of Section 704.06, Florida Statutes, Developer hereby voluntarily grants and conveys to the St. Johns River Water Management District (the “District”) a conservation easement in perpetuity over the Conservation Easement Areas (the “Conservation Easement”). Developer fully warrants title to said Conservation Easement Areas, and will warrant and defend the same against the lawful claims of all persons

whomsoever. Developer grants this Conservation Easement as a condition to permit number 4-009-56341-1 issued by the District, solely to offset adverse impacts to natural resources, fish and wildlife, and wetland functions.

1.1. Purpose. The purpose of this Conservation Easement is to assure that the Conservation Easement Areas will be retained forever in their existing natural condition and to prevent any use of the Conservation Easement Areas that will impair or interfere with the environmental value of these areas.

1.2 Prohibited Uses. Any activity in or use of the Conservation Easement Areas inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

- (a) Construction or placing buildings, roads, signs, bill boards, or other advertising, utilities or other structures on or above the ground.
- (b) Dumping or placing soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials.
- (c) Removing, destroying or trimming trees, shrubs, or other vegetation.
- (d) Excavating, dredging or removing loam, peat, gravel, soil, rock or other material substances in such a manner as to affect the surface.
- (e) Surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition.
- (f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
- (g) Acts or uses detrimental to such retention of land or water areas.
- (h) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical architectural, archaeological, or cultural significance.

1.3 Responsibilities. The Developer, its successors and assigns, are responsible for the operation and maintenance of the Conservation Easement Areas. In addition, the Developer, its successors and assigns, are responsible for the periodic removal of trash and other debris which may accumulate in the Conservation Easement Areas.

1.4 Reserved Rights. Developer reserves unto itself, and its successors and assigns, all rights accruing from its ownership of the Conservation Easement Areas, including the right to engage in or permit or invite others to engage in all uses of the Conservation Easement Areas, that are not expressly prohibited herein and are not inconsistent with the purpose of this conservation Easement.

1.5 Rights of District. To accomplish the purposes stated herein, the Developer conveys the following rights to the District:

(a) To enter upon and inspect the Conservation Easement Areas in a reasonable manner and at a reasonable times to determine if Developer or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement.

(b) To proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein to prevent the occurrence of any of the prohibited activities set forth herein, and require the restoration of areas or features of the Conservation Easement Areas that may be damaged by any activity inconsistent with this Conservation Easement.

1.6 District's Discretion. District may enforce the terms of this Conservation Easement at its discretion, but if Developer breaches any term of this Conservation Easement and District does not exercise its rights under this Conservation Easement, District's forbearance shall not be construed to be a waiver by District of such term, or of any subsequent breach of the same, or any other term of this Conservation Easement, or of any of the District's rights under this Conservation Easement. No delay or omission by the District in the Exercise of any right or remedy upon any breach by Developer shall impair such right or remedy or be construed as a waiver. District shall not be obligated to Developer, or to any other person or entity, to enforce the provisions of this Conservation Easement.

1.7 District's Liability. Developer will assume all liability for any injury or damage to the person or property of third parties which may occur in the Conservation Easement Areas arising from Developer's ownership of the Conservation Easement Areas. Neither Developer, nor any person or entity claiming by or through Developer, shall hold District liable for any damage or injury to person or personal property which may occur in the Conservation Easement Areas.

1.8 Acts Beyond Developer's Control. Nothing contained in this Conservation Easement shall be construed to entitle District to bring any action against Developer for any injury to or change in the Conservation Easement Areas resulting from natural causes beyond Developer's control, including, without limitation, fire, flood, storm and earth movement, or from any necessary action taken by Developer under emergency conditions to prevent, abate or mitigate significant injury to the Conservation Easement Areas or to persons resulting from such causes.

1.9 Amendment. The provisions of this Conservation Easement may not be amended without the prior written approval of the District.

1.10 Successors. The covenants, terms, conditions and restrictions of this Conservation Easement shall be binding upon , and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the Conservation Easement Areas.

ARTICLE X
MISCELLANEOUS

A. Term. This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run with and bind the land until twenty years past the date of filing of all necessary and proper paperwork as required by Brevard County, Florida for development of the CASABELLA SUBDIVISION unless amended as herein provided. After such time, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive period of ten (10) years each, unless amended as provided within this document or terminated by a written instrument executed by the Owners of at least three-fourths (3/4) of the Lots within the property then subject to this Declaration, filed of record in the Official Records of Brevard County, Florida.

B. Dissolution. Upon termination of this Declaration, the Association shall be dissolved. In the event of any such dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to any appropriate public agency to be used for purposes similar to those of the Association with respect to the Common Areas. 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.

C. Amendment.

(1) By Declarant. The Declarant may amend this Declaration, until the Transition or Turnover date as defined in Article I, subparagraph U.

(2) By Owners. In addition to the methods outlined in Article X, Section C this Declaration may be amended by the recording in the Official Records of Brevard County of an instrument executed and acknowledged by the President and Secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Owners entitled to cast at least sixty percent (60%) of the number of votes entitled to be cast pursuant to any and all sections hereof which pertain to said matters, and so long as Declarant consents to said amendment prior to the Transition or Turnover date as defined herein.

(3) Any amendment to the Covenants and Restriction which alter any provision relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have prior approval of the St. Johns River Water Management District.

D. Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail it shall be in writing and may be delivered on the third (3rd) day (other than Sunday or a legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

E. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the property and promoting and effectuating the fundamental concepts of the Property set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Florida.

F. Exemption of Declarant. Notwithstanding any provision in this Declaration to the contrary, neither Declarant nor any Declarant's activities shall in any way be subject to the control of or under the jurisdiction of the Architectural Review Board. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of Improvements, sales and leasing offices, and similar facilities, and to post signs incidental to construction, sales and leasing anywhere within the Property.

G. Assignment of Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions rights, and duties hereunder.

H. Compliance with HUD Regulations. The Declarant contemplates that the documents creating the Association and/or this Declaration may be amended to comply (if not in compliance) with all the requirements of the United States Department of Housing and Urban Development and any agencies or instrumentality's thereof (collectively, "HUD") pertaining to the purchase, guaranty, or assistance by HUD with respect to loans secured by any of the Estates. Declarant and all Owners therefore agree that, notwithstanding anything to the contrary contained herein, in the event this Declaration, the Bylaws, the Articles of Incorporation, or any other documents or instruments governing or creating the Association or the use of Estates within the CASABELLA SUBDIVISION do not comply with HUD requirement, the Declarant shall have the power, in its discretion, at any time or date which is four (4) years after the date this Declaration is recorded in the Real Property Records of Brevard County, Florida (on behalf of the Association and each and every Owner, without the jointer of any other party), to amend the terms of this Declaration, the Bylaws and the Articles of Incorporation and any other documents or instruments governing or creating the Association or the use of Estates within the CASABELLA SUBDIVISION and / or to enter into any agreement with HUD (or its designee) reasonably required by HUD to allow the Property, Association, Bylaws, and Articles of Incorporation, this Declaration, and/or any other related documents to comply with such requirements; provided, however, that in no event shall any amendment pursuant to this section [Article IX, Section H] (i) permit any additional uses of the Property (other than those currently permitted hereby), (ii) alter the manner in which the votes of the Owners are calculated hereunder, or (iii) alter the manner in which Assessments are determined or allocated among the Owners hereunder.

I. Enforcement and Nonwaiver.

(A). Right of Enforcement. Except as otherwise provided herein, any Owner at his own expense, Declarant, and/or the Board shall have the right to enforce any and all of the provisions of the CASABELLA Residential Restrictions. Such right of enforcement shall include both damages for and injunctive relief against, the breach of any such provision.

(1) The St. Johns Water Management District 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 and repair of the surface water or stormwater management system.

(B). Nonwaiver. The failure to enforce any provision of the CASABELLA SUBDIVISION residential Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said restrictions.

(C). Liens. The Association and / or the Declarant shall have the right, when appropriate in their judgment, to claim or impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right or effect compliance with this Declaration.

J. Document Construction.

(A). Restrictions Severable. The provisions of the CASABELLA SUBDIVISION Residential Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

(B). Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each.

(C). Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any of the paragraphs, sections or articles.

(D). Deadlines on Business Day. If any deadline in this Declaration should fall on a Saturday, Sunday or a Florida or federal holiday, such deadline shall automatically be extended to the next business day.

(E). Choice of Law. This Declaration shall be construed in accordance with the laws of the State of Florida

K. Severability. The illegality, invalidity, or unenforceability of any provision of this Declaration under present or future laws shall not affect the other provisions of this Declaration, which shall remain in full force and effect; and this Declaration shall be construed as if such illegal, invalid, or unenforceable provision had never comprised a part of this Declaration. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there

shall be automatically added to this Declaration a provision similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

L. Disputes. Matters of dispute or disagreement between Owners, or any Owner and the Association, with respect to interpretation or application of the provisions of this Declaration or the Bylaws, shall be determined by the Declarant, whose reasonable determination shall be binding upon all Owners.

M. Right of Use and Maintenance Requirement: Between and behind certain lots are located storm water tracts of land, which must remain clear for purposes of inspection or any necessary repair. One half of these tracts may be used by the adjoining homeowners and must place sod and be maintained by said Owner. No fencing or any other structures over such tracts or any hedgerow may be planted dividing these tracts. Some minimal landscaping such as a few trees or palms may be allowed. The Association or any other governmental body needing to perform repair of stormwater structures on said tract will not be responsible for any trees or other landscaping destroyed on these tracts other than sod.

N. Minor Corrections. Notwithstanding anything to the contrary contained herein, during the period prior to the sixth (6th) anniversary of the date Declaration is recorded in the Real Property Records of Brevard County, Florida, Declarant shall have the right, without the joinder of any other party, to amend this Declaration, in order to correct any typographical errors and to make other revisions thereto which do not materially and adversely affect the rights or obligations of any other Owner.

O. Action Against Declarant. Following the Transaction and Turnover, as defined herein, the Association shall not institute any legal proceeding against Declarant without the consent of seventy-five percent (75%) of the votes of the total owners determined at a regularly noticed meeting of the homeowners.

IN WITNESS WHEREOF, Declarant has executed this Amended and Restated Declaration as of this ____ day of February, 2005.

CASABELLA DEVELOPMENT, LLC

By: _____
Ronald D. Levy, Managing Member

STATE OF FLORIDA
COUNTY OF BREVARD

This instrument was acknowledged before me on this ____ day of February, 2005, by Ronald D. Levy, as

Managing Partner of CASABELLA DEVELOPMENT, LLC, a Florida Limited Liability Company, on behalf of said Company, in the capacity therein stated.

NOTARY PUBLIC:
MY COMMISSION EXPIRES: