

This Instrument Prepared by:  
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**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
TREELINE AIRPORT PARK**

**THIS DECLARATION** is made this 22 day of March, 2016, by JDC Fort Myers, L.L.C., a Missouri limited liability company hereinafter called the "Declarant," for itself and its successors, grantees, and assigns and by Airport Gateway LTD, a Florida limited partnership, as owner of lands being submitted to this Declaration ("Consenting Owner").

**PREMISES:**

**WHEREAS**, Declarant owns certain real property located in Lee County, Florida, and intends to create thereon a commercial development along with related common facilities, to be known as Treeline Airport Park ("Treeline Development"); and

**WHEREAS**, Consenting Owner owns certain real property located in Lee County, Florida, and intends to create thereon a commercial development along with related common facilities, to be known as Airport AutoPark ("AutoPark Development"); and

**WHEREAS**, the Treeline Development and the AutoPark Development share a stormwater management system (the "System"), as described in that certain Environmental Resource Permit No. 36-04033-P-02 (the "ERP") issued by South Florida Water Management District (the "District"), and the Declarant and the Consenting Owner intend to submit their respective Developments to this Declaration for the purpose of managing and maintaining the System; and,

**WHEREAS**, the real property which is intended to be submitted to this Declaration (the "Lands") is described in **Exhibit "A"** to this Declaration; and

**WHEREAS**, to provide for maintenance of the System and other common infrastructure, and to create certain ingress, egress, drainage, and utility easements over the Developments, Declarant and Consenting Owner deem it desirable to subject the Lands to certain protective covenants, conditions, and restrictions; and

**WHEREAS**, to provide a means for meeting the purposes and intents herein set forth, Treeline Airport Park Property Owners Association, Inc., a Florida corporation not for profit (hereinafter the "Association") has been incorporated; and

**NOW THEREFORE** the Declarant, and any other person owning an interest in the subject property who consents to or joins in the making of this Declaration, hereby declares that the Lands described in **Exhibit**

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"A" hereto are and shall be owned, used, sold, conveyed, encumbered, demised and occupied subject to the provisions of this Declaration, which shall run with the Lands and be binding on all parties having any right, title or interest in the Lands or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. Nothing herein contained, and no violation of these covenants, conditions and restrictions shall invalidate or impair the lien of any mortgage or deed of trust given in good faith and for value. Further, the express intent of Declarant is that substantive contract rights created hereunder shall not be retroactively affected by legislation enacted subsequent to the recording of this Declaration.

1. **DEFINITIONS.** The following definitions shall apply to the terms used in this Declaration and its recorded exhibits, or if not defined below unless the context clearly requires another meaning.

1.1 **"Assessment" or "Assessments"** means a share of the funds required for the payment of the expenses of the Association which from time to time is assessed against the Members, as authorized by Section 8 of this Declaration.

1.2 **"Association"** means Treeline Airport Park Property Owners Association, Inc., a Florida corporation not for profit and its successors and assigns.

1.3 **"Board"** means the Treeline Airport Property Owners Association, Inc.

1.4 **"Common Areas" or "Common Responsibility Areas"** shall mean and refer to the real and personal property maintained by the Association, whether or not owned by or dedicated to it. The Common Areas shall consist of the surface water management system, conservation areas and common utilities facilities, if any, all as dedicated to the Association on the subdivision plats or as otherwise provided for in this Declaration or the ERP, as it may be amended in the future, including any permitted addition or modification to the System pursuant to an amendment to the ERP by any Member or for the benefit of any property located within the Development.

1.5 **"County" or "the County"** means Lee County, Florida.

1.6 **"Declarant"** means JDC Fort Myers, L.L.C., a Missouri limited liability company, its successors or assigns.

1.7 **"Development"** means the real property described on Exhibit A hereto, comprising Treeline Airport Park and the improvements thereon, and Airport AutoPark and the improvements thereon.

1.8 **"Governing Documents"** means this Declaration, Articles of Incorporation, and Bylaws of the Association. In the event of a conflict in the interpretation of the Governing Documents, they shall be applied in the order of priority as listed herein above.

1.9 **"Lands"** means the land described in Exhibit "A" to this Declaration.

1.10 **"Member"** means any or all of those persons who are entitled to membership in the Association, as provided in the Governing Documents.

1.11 **"Owner"** means the record Owner of legal title to any of the Tracts set forth in Exhibit "D" to this Declaration, including the Declarant.

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1.12 **"SFWMD"** means the South Florida Water Management District (the "District").

1.13 **"Structure"** means something built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires a more or less permanent location on the ground, or which is attached to something having a permanent location on the ground. The term shall be construed as if followed by the words "or part thereof."

1.14 **"Tract"** shall mean and refer to any platted Tract or other platted portion of the Lands as well as any improvements thereon; any Tract shown upon any re-subdivision (whether by replat or otherwise); for purposes of voting and assessment, an allocation thereof to a Tract.

1.15 **"Treeline Airport Park"** is the name of the Declarant's Development, and **"Airport AutoPark"** is the name of Consenting Owners Development

1.16 **"Voting Interests"** means the arrangement established in Article 4 of this Declaration and in Section 2 of the Bylaws of the Association by which certain classes of Members are entitled to vote in the affairs of the Association.

**2. GENERAL DEVELOPMENT PLAN.** The Declarant shall be solely responsible for the development of Treeline Airport Park, subject only to the restrictions created herein, and the Consenting Owner shall be solely responsible for the development of Airport AutoPark, subject only to the restrictions created herein.

**3. THE ASSOCIATION'S PURPOSES AND POWERS.** The primary purposes of the Association are to hold title to, operate and/or maintain the Common Areas and to take such other action as the Association is authorized or required to take with regard to the Common Areas pursuant to the ERP and this Declaration. The Association shall operate, insure, maintain and repair all property and related improvements designated as Common Areas, regardless of whether title to that property has been formally conveyed to the Association.

3.1 **Common Areas.** The Association may operate, maintain and, if deeded, hold record title to the Common Areas, as defined under Section 1.4. The Board of Directors may promulgate reasonable rules and regulations regarding use of the Common Areas consistent with the Governing Documents. The costs of operating, maintaining, repairing, insuring and protecting the Common Areas and the facilities located thereon or connected therewith shall be assessed against all Tracts set forth in **Exhibit "D"** in accordance with the provisions of Section 8.2.

3.2 **Articles of Incorporation.** The Articles of Incorporation of the Association are attached as **Exhibit "B."**

3.3 **Bylaws.** The Bylaws of the Association shall be the Bylaws attached as **Exhibit "C"** as they may be amended from time to time.

#### **4. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION.**

(A) **Membership.** Every person or entity who is a record Owner of a fee interest in any Tract as set forth in **Exhibit "D"** shall be a Member of the Association. Notwithstanding anything else to the contrary set forth in this Article, any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member of the Association.

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(B) **Voting Rights.** The Association shall have one (1) class of voting membership:

**Class A.** Class A Members shall be all those Owners as defined in "Membership". A Class A Member shall be entitled to the number of votes equal to the gross acreage of its Tract, divided by the total acreage of Tracts owned by Owners in the Development, times 100. The initial voting interests assigned to the Tract(s) are set forth in Exhibit "D".

In the event that an Institutional Mortgagee or other party acquires title to a Tract through foreclosure or deed in lieu of foreclosure, such party shall have the class of membership last held by the Owner of the Tract to which title was so acquired.

**General Matters.** When reference is made herein, or in the Articles, Bylaws, Rules and Regulations, or otherwise, to a majority or specific percentage of Members, such reference shall be deemed to be a reference to a majority or specific percentage of the votes at a duly constituted meeting of the Members.

**4.1 Association Rights and Easements.** Members and each Member's permittees, licensees, tenants and invitees, have the non-exclusive right to use all other Common Areas subject to:

(A) The right of the Association, by and through its Board of Directors, to adopt the annual budget and to determine the annual assessments to be paid by Members;

(B) The right of the Association, by and through its Board of Directors, to dedicate or transfer all or any part of the Common Areas to any governmental agency, public authority, or utility;

(C) The right of the Association, by and through its Board of Directors, to grant non-exclusive easements over, across or through the Common Areas;

(D) The right of the Association, by and through its Board of Directors, to open the Common Areas for use by Non-Members of the Association, or Non-Owners, provided such use does not interfere or adversely affect existing uses by Members;

(E) The right of the Association, by and through its Board of Directors, with the prior assent of two-thirds (2/3rds) of the voting interests, to borrow money for the purpose of improving the Common Areas, and in aid thereof, to mortgage the Common Areas;

(F) The right of the Association, by and through its Board of Directors, to take such steps as are reasonably necessary to protect the Common Areas;

(G) The provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association; and any rules and regulations governing use and enjoyment of the Common Areas adopted by the Association; and/or

**4.2 Maintenance of Common Areas.** The Association shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, the Common Areas, and to the extent not otherwise

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provided for, the paving, drainage structures, landscaping, improvements and other structures (except public utilities, to the extent same have not been made Common Areas) situated on the Common Areas, if any, all such work to be done as ordered by the Board of Directors of the Association. Without limiting the generality of the foregoing, the Association shall assume all of the responsibilities to Lee County and its governmental and quasi-governmental subdivisions and similar entities (including the South Florida Water Management District) of any kind with respect maintenance of the Common Areas.

All work pursuant to this Section and all expenses incurred or allocated to the Association pursuant to this Declaration shall be paid for by the Association through assessments imposed in accordance herewith. No Owner may waive or otherwise escape liability for assessments by non-use (whether voluntary or involuntary) of the Common Areas or abandonment of the right to use the Common Areas.

## 5. GENERAL COVENANTS AND USE RESTRICTIONS.

**5.1 Surface Water Management Systems, Lakes, and Wet Retention Ponds.** The Association shall be responsible for the operation and maintenance of all surface water management systems, ditches, canals, lakes, and water retention ponds in the Development as permitted under South Florida Water Management District Permit No. 36-04033-P02, a copy of which is attached hereto as Exhibit "E". Copies of the permit and any future SFWMD permit actions shall be maintained by the Association's Registered Agent for the Association's benefit.

All surface water management systems within the Development, excluding those areas (if any) normally maintained by the County, will be the ultimate responsibility of the Association, which may enter a Tract and make whatever alterations, improvements or repairs that are deemed necessary to provide or restore proper water management. The cost shall be a common expense of the Association. Nothing in this Section shall be construed to allow any person or entity to construct any new water management facility, or to alter any storm management systems or conservation areas, without first obtaining the necessary permits from all governmental agencies having jurisdiction as well as approval from the Association (provided, however, that the Association is obligated to approve and accept any alterations or additions related to the future development of Airport AutoPark, as required by the District in any modification of the ERP or a new ERP or other permit specific to Airport AutoPark or any portion thereof).

(A) Without limiting any rights of Declarant hereunder, no structure of any kind (including docks) shall be constructed or erected in or on, nor shall an Owner in any way change, alter, impede, revise or otherwise interfere with the flow or volume of water in, any portion of any water management area including, but not limited to lakes, ponds, swales, drainage ways, or wet retention ponds or areas intended for the accumulation of runoff waters, without the specific written permission of the Association.

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

(C) No Tract or Common Area shall be increased in size by filling in any lake, pond or other water retention or drainage areas which it abuts without first obtaining applicable permits from the District and/or other agencies with jurisdiction. No person shall fill, dike, rip-rap,

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block, divert or change the established water retention and drainage areas that have been or may be created without the prior written consent of the Association. No person other than the Declarant, the Consenting Owner, or the Association may draw water for irrigation or other purposes from any lake, pond or other water management area, nor is any boating, swimming, or wading in such areas allowed.

(D) All Stormwater Management Systems and Conservation Areas, excluding those areas (if any) maintained by the County, will be the ultimate responsibility of the Association. The Association may enter any Tract and make whatever alterations, improvements or repairs are deemed necessary to provide, maintain, or restore proper surface water management. The cost shall be an expense of the Association. **NO OWNER MAY REMOVE NATIVE VEGETATION THAT MAY BECOME ESTABLISHED WITHIN THE CONSERVATION AREAS. "REMOVAL" INCLUDES DREDGING, APPLICATION OF HERBICIDE, PULLING AND CUTTING.**

(E) Nothing in this Section shall be construed to allow any person to construct any new water management facility, or to alter any Stormwater Management Systems or Conservation Areas, without first obtaining the necessary permits from all governmental agencies having jurisdiction, including South Florida Water Management District.

(F) The Association shall be responsible for collecting assessments for the operation, maintenance and, if necessary, replacement of the Surface Water Management system, as further provided in this Section 5.2 of the Declaration.

(G) Notwithstanding anything else to the contrary contained herein, Lee County Land Development Code required landscaping and vegetation shall be allowed to be located by the Declarant, Consenting Owner, or the Association within lake access easements and preserve access easements, as depicted on the subdivisions plats for the Property. The Association shall be responsible for maintenance and replacement of all such landscaping.

(H) The Association shall be responsible for maintenance of preserve Tract P, as depicted on the subdivision plats for the Property. The Property shall be subject to Lee County approved Indigenous Restoration Plans, Indigenous Management Plans and Protected Species Management Plans.

**TRACTS MAY CONTAIN OR ABUT CONSERVATION AREAS, WHICH ARE PROTECTED UNDER RECORDED CONSERVATION EASEMENTS. THESE AREAS MAY NOT BE ALTERED FROM THEIR PRESENT CONDITIONS EXCEPT IN ACCORDANCE WITH THE RESTORATION PROGRAM INCLUDED IN THE CONSERVATION EASEMENT, OR TO REMOVE EXOTIC OR NUISANCE VEGETATION, INCLUDING WITHOUT LIMITATION MELALEUCA, BRAZILIAN PEPPER, AUSTRALIAN PINE, JAPANESE CLIMBING FERN, CATTAILS, PRIMROSE WILLOW, AND GRAPE VINE. PROPERTY OWNERS ARE RESPONSIBLE FOR PERPETUAL MAINTENANCE OF SIGNAGE REQUIRED BY THE PERMIT ISSUED BY SOUTH FLORIDA WATER MANAGEMENT DISTRICT, WHICH MAINTENANCE WILL BE MAINTAINED TO THE GREATEST DEGREE LAWFUL BY THE ASSOCIATION.**

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**5.2 Open Space.** Any land subjected to this Declaration and designated as open space, landscape buffer, preserve area, Conservation Area or words of similar import on any plat, declaration of covenants and restrictions, official site plan approved by the applicable government authority, permit or other document shall be preserved and maintained as open space. If such land or an easement over such land has been conveyed or dedicated to the Association, the Association shall preserve and maintain such land. No development may occur on such land except structures or improvements which promote the use and enjoyment of the land for open space purposes. The Association may also enter in agreements for the maintenance of conservation areas located in or adjacent to the Lands.

6. Intentionally Deleted.

## **7. COMMON AREAS; CONVEYANCE, USE AND MAINTENANCE.**

**7.1 Conveyance and Use.** Declarant will initially hold the legal title to the Common Areas, but agrees to convey the Common Areas to the Association or to grant easements over the Common Areas, in Declarant's sole discretion. If Declaration decides to convey the Common Areas to the Association by Quitclaim Deed or by Grant of Easement, and the Association shall accept such conveyance, subject to taxes for the year of conveyance (if any) and to restrictions, limitation, conditions, reservation and easements of record. Declarant shall have the right from time to time to enter upon the Common Areas during periods of construction upon adjacent property and for the purpose of construction of any facilities on the Common Areas that Declarant elects to build.

Declarant may convey property to the Association in either an improved or an unimproved condition, with or without any specific restrictions on its use, and the Association must accept such property. The Association shall not accept conveyance of real property from any third party in either an improved or unimproved condition, without the prior written consent of Declarant, so long as Declarant owns any property in Treeline Airport Park. Nothing in this section shall cause the Association to assume any obligations to construct the retention pond on Tract L of the subdivision plat for Treeline Airport Park, as further set forth in certain agreements between the Declarant and the Consenting Owner.

**7.2 Maintenance and Alteration.** Except as otherwise provided herein, the Association shall maintain, repair and replace any and all improvements constructed on the Common Areas, including without limitation all landscaping, roads, utility easements dedicated to the Association, if any, conservation areas, drainage structures, utility lines, light fixtures, and other structures. Additionally, where the Common Areas are contiguous to the right-of-way of a road, the Association shall maintain all landscaping (if any) between the Common Areas and the pavement within such right-of-way.

**7.3 Partition, Subdivision and Encumbrance.** Except as hereinafter provided, after legal title to the Common Areas, or any portion thereof, becomes vested in the Association, the Common Areas shall not be abandoned, partitioned, subdivided, alienated, released, transferred, hypothecated, or otherwise encumbered, without first obtaining the approval of not less than two-thirds (2/3rds) of the voting interests. The foregoing shall not be construed to limit the authority of the Association through its Board of Directors to grant such easements over, across and through the Common Areas, as may be necessary for the effective and efficient operation of the facilities or for the general benefit of the Members. Nothing herein shall be construed to prohibit judicial partition of any Tract owned in co-tenancy.

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**7.4 Association's Rights and Powers.** No Common Areas shall be used in violation of any rule or regulation or other requirement of the Association established pursuant to the provisions of this Declaration or the Bylaws.

**7.5 Expansion or Modification of Common Areas.** Additions or modifications to the Common Area may be made, so long as they are solely for the purpose of adding to or modifying the System or the ERP (without expanding the Lands), and not inconsistent with the applicable governmental regulations.

## **8. COVENANT FOR MAINTENANCE ASSESSMENTS.**

**8.1 Creation of the Lien and Personal Obligation for Assessments.** Except as provided elsewhere herein, Declarant and any other Owner executing this Declaration or any Supplemental Declaration, for all Tracts now or hereafter located within The Lands, hereby covenants and agrees, and each Owner of any Tract by acceptance of a Deed or other conveyance thereof, whether or not it shall be so expressed in such Deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual assessments and charges for the operation of the Association for the maintenance, management, operation and insurance of the Common Areas as provided elsewhere herein, including such reasonable reserves as the Association may deem necessary, and all other charges and assessments hereinafter referred to or lawfully imposed by or on the Association, all such assessments to be fixed, established and collected from time to time as herein provided.

Assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge and continuing lien upon the Tract against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment fell due and all subsequent Owners until paid, except as provided in Section 8.8 of this Article.

Reference herein to assessments shall be understood to include reference to any and all of said charges whether or not specifically mentioned.

**8.2 Types of Assessments.** Each assessment levied hereunder shall be one (1) of the following types (although two (2) more types of assessments may be payable by an Owner as a single sum):

(A) **Common Assessments** - shall be for those expenses which are incurred primarily for the benefit of all Owners, as such primary benefit is determined by the Board of Directors. By way of example only, Common Assessments shall be levied for expenses relating to Common Areas. Common Assessments shall be levied upon all Tracts at the rate allocated to it using the formula set forth under Exhibit "D".

(B) **Special Assessments** - shall be for those expenses which otherwise would be Common Assessments but for the fact that they are of a non-recurring and/or unforeseen nature (i.e., are such that they cannot be paid by budgeting therefor as part of a Common expenses), including, without limitation, the costs uninsured casualty losses. Special Assessments shall be levied against all applicable Tracts at the rate allocated to it using the formula set forth under Exhibit "D". Also, Special Assessments shall be subject to the special requirements set

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forth below in the same manner as increases in the maximum annual rate of assessments, except for those levied per this Section with respect to restoration after casualty losses. Notwithstanding the foregoing, no special assessment may be levied for any substantial addition to or a material alteration of any common area without the consent of not less than two-thirds (2/3rds) of the voting interests and the Declarant.

**8.3 Establishment of Budgets and Assessments.** The Board of Directors shall, by appropriate resolution duly adopted, establish the first operating budget for the Association (including Common Assessments, if applicable) and the rates of assessments thereunder in accordance with this Section. After adopting the initial budget and assessments as provided above, the Board of Directors shall fix the amount of the assessment against the Tracts subject to the Association's jurisdiction for each assessment period, to the extent practicable, at least sixty (60) days in advance of such date or period, and shall, at that time, prepare a roster of the Tracts and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto thirty (30) days prior to the date payment of the first installment thereof is due, except as to Service and Special Assessments. In the event no such notice of the assessments for a new assessment period is given, the amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein.

The Association, through the action of its Board of Directors, shall have the power, but not the obligation, to enter into an agreement or agreements from time to time with one or more persons, firms or corporations (including affiliates of Declarant) for management services, including the administration of budgets and assessments as herein provided.

**8.4 Purpose of Assessments.** The assessments levied by the Association shall be used for the purposes expressed in this Article and for such other purposes as the Association shall have within its powers and from time to time elect to undertake.

**8.5 Date of Commencement of Annual Assessments; Due Dates.** The Common Assessments provided for in this Article shall commence on the first day of the quarter next following the recordation of these covenants and shall be applicable through December 31st of that year. Each subsequent annual assessment shall be imposed for the year beginning January 1st and ending December 31st.

The Common Assessments shall be payable in advance in quarterly installments, or in annual, semi-annual or quarter-annual installments if so determined by the Board of Directors (absent which determination they shall be payable quarterly).

The due date of any Service or Special Assessment shall be fixed in the Board Resolution authorizing such assessment.

However, notwithstanding the above, assessments for any Tract within the Autopark Parcel shall not commence until such time that any Tract, or portion thereof, is sold or leased, at which time such Tract or any portion thereof, shall be responsible for assessments in accordance with this Declaration.

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**8.6 Effect of Non-Payment of Assessment; the Personal Obligation; the Lien; Remedies of the Association.** If the assessments (or installments) provided for herein are not paid on the date(s) when due (being the date(s) specified herein or pursuant hereto), then such assessments (or installments) shall be come delinquent and shall, together with the late charges, interest and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Tract which shall bind such property in the hands of the then Owner, its heirs, personal representatives, successors and assigns. Except as provided in Section 8.7 of this Article to the contrary, the personal obligation of Owner to pay such assessment shall pass to its successors in title and recourse may be had against either or both.

Further, all overdue sums (regardless of whether they are accelerated or not) shall bear interest from the dates when due until paid at the rate of eighteen percent (18%) per annum. The Association may bring an action at law against the Owner(s) personally obligated to pay the same, may record a Claim of Lien (as evidence of its lien rights as hereinabove provided for) against the Tract on which the assessments and interest are unpaid, may foreclose the lien against the Tract on which the assessments and interest are unpaid, or may pursue one or more of such remedies at the same time or successively, and attorneys' fees and costs actually incurred in preparing and filing the Claim of Lien and the Complaint, if any, and prosecuting same, in such action shall be added to the amount of such assessments and interest secured by the lien, and in the event a judgment is obtained, such judgment shall include all such sums as above provided and attorneys' fees actually incurred, together with the costs of the action, through all applicable appellate levels.

In the case of an acceleration of the next twelve (12) months of installments, each installment so accelerated shall be deemed, initially, equal to the amount of the then most current delinquent installment, provided that if any such installment so accelerated would have been greater in amount by reason of a subsequent increase in the applicable budget, the Owner of the Tract whose installments were so accelerated shall continue to be liable for the balance due by reason of such increase and Special Assessments against such Tract shall be levied by the Association for such purpose.

In addition to the rights of collection of assessments stated in this Section, any and all persons acquiring title to or an interest in a Tract as to which the assessment is delinquent, including, without limitation, persons acquiring title by operation of law and by judicial sales, shall not be entitled to the possession of such Tract or the enjoyment of the Common Areas until such time as all unpaid and delinquent assessments and other sums due and owing from the selling Owner have been fully paid; provided, however, that the provisions of this sentence shall not be applicable to the mortgagees and purchasers contemplated by Section 8.7 of this Article.

All assessments, interest, attorneys' fees and other sums provided for herein shall accrue to the benefit of the Association.

**8.7 Subordination of the Lien.** The lien of the assessments provided for in this Article shall be subordinate to real property tax and assessment liens and the lien of any first mortgage; provided, however, that any such mortgage lender, when in possession, or any receiver, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such mortgage lender or its affiliate acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgage lender, shall hold title subject to the liability and lien of any assessment coming due after such foreclosure (or conveyance in lieu of foreclosure). Any unpaid assessment which cannot be collected as a lien against any Tract by reason of the provisions of this Section shall be deemed to be an assessment divided equally among, payable by and a lien against all Tracts

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subject to assessment by the Association, including the Tract(s) as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

## 9. COVENANT AND RULE ENFORCEMENT: DISPUTE RESOLUTION.

**9.1 Generally.** The Association has the power to enforce all covenants, conditions, restrictions, rules and agreements applicable to any real property within Treeline Airport Park and is further empowered to promulgate and enforce administrative rules and regulations governing the use of the Common Areas.

**9.2 Owner and Member Compliance.** The protective covenants, conditions, restrictions and other provisions of the Governing Documents and the rules promulgated by the Association shall apply to all Owners, as well as to any other person occupying any Tract. Failure of an Owner to notify any person of the existence of the rules, or the covenants, conditions, restrictions, and other provisions of the Governing Documents shall not in any way act to limit or divest the Declarant or the Association of the power to enforce these provisions. Each Owner shall be responsible for any and all violations by its tenants, licensees, invitees or guests, and by the guests, licensees and invitees of its tenants, at any time.

**9.3 Litigation.** Each Member, and the Association, are governed by and must comply with Florida's "Not for Profit Act" Chapter 617, Florida Statutes, and each Member, each Member's tenants, guests, and invitees, and the Association must comply with the Governing Documents and rules of the Association. Enforcement actions for damages, or for injunctive relief, or both, on account of any alleged violation of the Governing Documents and Association rules may be brought by the Declarant, any Owner, or the Association against:

- (A) the Association;
- (B) a Member;
- (C) any occupant of a Tract;
- (D) any Director or officer of the Association who willfully and knowingly fails to comply with these provisions; and
- (E) any tenants, guests, or invitees occupying a Tract or using the Common Areas.

**9.4 Damages and Attorney's Fees.** Damages shall not be conclusively deemed adequate relief for any breach or violation of the Governing Documents or the rules. Any person or entity entitled to enforce any provision thereof shall be entitled to relief by way of injunction, as well as any other available relief either at law or in equity. The prevailing party in a proceeding to enforce any provision of the Governing Documents or rules, or to enjoin violation or breach of any provision hereof, or recover damages on account of such breach, against any person shall be entitled to recover reasonable attorney's fees and court costs (including those resulting from appellate proceedings).

9.5 Intentionally Deleted.

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9.6 **Enforcement of Maintenance.** The beneficiaries of the stormwater management system, including the South Florida Water Management District, shall have the right to enforce the provisions of the Governing Documents including a civil action for an injunction and penalties against the Association to compel it to correct any outstanding problems with the Surface Water Management System facilities, roads, utilities, or in mitigation or conservation areas under the responsibility or control of the Association.

**10. INSURANCE: RECONSTRUCTION AFTER CASUALTY.**

10.1 **Flood Insurance.** The Association may, in the discretion of the Board, maintain flood insurance to cover common area property in designated hazard areas, if any, up to the full insurable value or maximum coverage available.

10.2 **Property Insurance.** The Association shall maintain replacement cost property insurance coverage on all structures, improvements, and fixtures which are part of the Common Areas.

10.3 **Liability Insurance.** The Association may in its reasonable discretion maintain adequate public liability insurance coverage for all Common Areas.

10.4 **Bonding.** The Association may maintain adequate fidelity bond coverage for all individuals having control of or access to the Association funds.

**11. RIGHTS OF MORTGAGEES.**

11.1 **Notice of Casualty or Condemnation.** In the event of condemnation, eminent domain proceedings, or very substantial damage to, or destruction of any significant portion of the Common Areas, the record holder of any first mortgage on the Common Areas who has requested such notice in writing, shall be entitled to written notice.

11.2 **Right to Inspect Documents and Books.** The Association shall make available to Institutional Mortgagees requesting same the current Governing Documents and Rules and Regulations of the Association and financial statements of the Association. "Available" shall mean ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies shall be at the expense of the mortgagee requesting same.

11.3 **Financial Statement.** Any Institutional Mortgagee is entitled, upon written request, to a copy of the financial statements of the Association for the immediately preceding fiscal year.

11.4 **Lender's Notices.** Upon written request to the Association, any Institutional Mortgagee shall be entitled to timely written notice of:

(A) Any delinquency of more than sixty (60) days in the payment of assessments or charges owed by the Owner of any Tract on which it holds a mortgage.

**DECLARATION**

(B) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association. An increase in coverage, or a change of insurer does not require notice under this Paragraph.

(C) Any proposed action that requires the consent of a specified percentage of mortgage holders.

11.5 **Estoppels.** The Association will provide estoppels certificates to lenders when requested setting forth outstanding assessment information for any Tract. However, the Association may adopt reasonable policies and fees for providing such estoppel information.

## 12. GOVERNMENTAL REQUIREMENTS.

12.1 **Preamble.** Because the development and use of The Lands is governed by the County and the South Florida Water Management District ("SFWMD"), among other governmental and quasi-governmental entities, this Article has been adopted for the purpose of, including in this Declaration, certain provisions required by such entities. Accordingly, the heading of each Section set forth below refers to the entity having required the provisions contained in that Section.

12.2 **SFWMD.** It shall be the responsibility of each Owner, at the time of construction of a building or structure, to comply with the construction plans for the surface water management system serving The Lands.

No Owner may construct or maintain any building or structure, or undertake or perform any activity in the wetlands, buffer areas or upland conservation areas described in the SFWMD permit and/or recorded plat for the applicable portion of The Lands, unless prior approval is received from the SFWMD.

12.3 **Rules of Construction and Amendment.** Notwithstanding anything in this Declaration to the contrary, in the event of conflict between this Article 12 and any other provisions of this Declaration, the Articles of Incorporation, the Bylaws or any Rules and Regulations adopted by the Association, then the provisions of this Article 12 shall supersede and control. Further, no Amendment to this Declaration shall be made which (i) amends any provision of this Article or (ii) has the effect of overriding or changing the application of a provision of this Article, in either case without the prior written consent of the entity as required by the applicable Section within this Article.

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

## DECLARATION

(A) IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE LANDS HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE LANDS AND THE VALUE THEREOF.

(B) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, THE COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES.

(C) ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF ITS ACCEPTANCE OF TITLE TO ITS TRACT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE LANDS (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS ARTICLE AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS ARTICLE.

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

#### **14. DURATION OF COVENANTS; AMENDMENT.**

**14.1 Duration of Covenants.** The covenants, conditions, easements and restrictions in this Declaration shall run with and bind the property within the Development, and shall inure to the benefit of and be enforceable by the Association and any Owner, their respective legal representatives, heirs, successors, and assigns, for an initial period to expire on the ninety-ninth (99th) anniversary of the date of recording this Declaration in the Public Records of Lee County, Florida. Upon the expiration of said initial period, this Declaration shall be automatically renewed and extended for an unlimited number of successive ten (10) year periods, this Declaration as it may be amended being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period, until terminated as provided below.

#### **DECLARATION**

**14.2 Termination.** This Declaration may be terminated at any time if not less than one hundred percent (100 %) of the voting interests of all classes of the Members of the Association vote in favor of terminating this Declaration. Written notice of any meeting at which a proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given at least forty-five (45) days in advance of said meeting. If the Members vote to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Association at which the resolution was adopted, the date that notice of the meeting was given, the total number of votes cast in favor of the resolution, and the total number of votes cast against the resolution. The certificate shall be recorded in the public records of the County, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration. The termination shall be effective on the date the Certificate is recorded in the public records.

**14.3 Amendments.** This Declaration may be amended at any time. Except as otherwise specifically provided, amendments to this Declaration may be proposed by the Board of Directors or by written petition of at least one-fourth (1/4th) of the voting interests. Further, any amendment that materially and adversely affects the rights of an Owner shall not be effective against that Owner without the affected Owner's written consent.

**14.4 Procedure.** Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the Members not later than the next annual meeting for which proper notice can be given.

**14.5 Vote Required.** Except as otherwise provided by law, or by specific provision of this Declaration, a proposed amendment to this Declaration shall be adopted if it is approved at an annual or special meeting called for the purpose by at least sixty-six and two-thirds (66-2/3rds) of the Membership interests present, in person or by proxy and voting, provided that notice of the text of each proposed amendment was sent to the Members with notice of the meeting.

**14.6 Certificate; Recording.** A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be executed by officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of the County. The certificate must set forth the location in the public records of the County where this Declaration was originally recorded.

**14.7 Proviso.** Regardless of any other provision in this Declaration, no amendment of the governing documents by any person, and no termination or amendment of this Declaration, can be effective to change the Association's responsibilities for the Stormwater Management System, unless the amendment has been consented to in writing by the SFWMD. Any proposed amendment which would affect the Stormwater Management System must be submitted to the SFWMD for a determination of whether the amendment necessitates a modification of the surface water management permit.

**14.8 Exceptions.** Wherever in this Declaration the consent, approval, or affirmative vote of two-thirds (2/3rds) or more of the voting interests of the Members is required to authorize or take a particular action, the language requiring the particular number of consents, approvals, or votes may not be amended except by the same vote required to authorize or take the action.

## DECLARATION

14.9 Intentionally Deleted

14.10 Intentionally Deleted

14.11 **Limitations.** No amendment to any of the Governing Documents shall be effective to change any Member's voting rights as set forth in Section 2.2 of the Bylaws, or the provisions of Sections 14.9 or 14.10 above, unless all Members affected first consent in writing to said amendment.

14.12 **Rules of Construction.** Notwithstanding anything in this Declaration to the contrary, in the event of conflict between any provisions of this Article 14 and the Declaration, the Articles of Incorporation, the Bylaws or any Rules and Regulations adopted by the Association, then the provisions of this Article 14 shall supersede and control.

#### 15. GENERAL AND PROCEDURAL PROVISIONS.

15.1 **Other Documents.** Declarant and the Association shall have such rights, powers, duties, and privileges as are set forth in the Governing Documents. This Declaration and its provisions shall prevail in all events of conflict.

15.2 **Severability.** If any covenant, condition, restriction or other provision of this Declaration is held to be invalid in whole or in part by any court of competent jurisdiction, the holding shall in no way affect the validity of the remaining provisions of this Declaration, all of which shall remain in full force and effect.

15.3 **Merger or Consolidation of Association.** Upon a merger or consolidation of the Association with another corporation as provided by law, the Association's rights, obligations and property may, by operation of law, be transferred to another surviving or consolidated association, alternatively, remain the rights, obligations and property of the Association as the surviving corporation. The surviving or consolidated corporation may administer this Declaration within the existing property together with the covenants and restrictions established upon any other property, as one common scheme.

15.4 **Dissolution.** If the Association is dissolved other than by a merger or consolidation as provided for above, each Tract shall continue to be subject to the assessments provided for in Section 8, and each Owner shall continue to be personally obligated to Declarant or the successors or assigns of the Association (as the case may be) for such assessment to the extent that such assessments are required to enable Declarant or any such successors or assigns acquiring any real property previously owned by the Association to properly maintain, operate and preserve it.

15.5 **Gender; Number.** Wherever in this Declaration the context so requires, the singular number shall include the plural, and the converse; and the use of any gender shall be deemed to include all genders.

15.6 Notices.

(A) **To Declarant.** Notices to Declarant as may be required herein shall be in writing and delivered or mailed to Declarant at its principal place of business as shown by the records of the Secretary of State, or at any other location designated by Declarant.

#### DECLARATION

(B) **To the Association.** Notices to the Association shall be in writing and delivered or mailed to the Association at its principal place of business as shown by the records of the Secretary of the State of Florida, or at any other location designated by the Association.

(C) **To Owners.** Notices to any Owner as may be required herein shall be in writing and shall be delivered or mailed to the Owner at its last known address, or at the address shown on the deed recorded in the public records of the County.

15.7 **Construction.** The provisions of this Declaration shall be liberally interpreted and construed to provide maximum flexibility consistent with the general development plan and the purposes set forth herein, including the premises.

15.8 **Captions, Headings and Titles.** Captions, headings, capitalization of certain words, and titles inserted throughout the Governing Documents are for convenience only, and in no way shall such captions, headings or titles define, limit, or in any way affect the subject matter, content or interpretation of the terms and provisions of the Governing Documents.

15.9 **Interpretation.** The Board of Directors of the Association shall be responsible for interpreting the provisions of the Governing Documents. Their interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by Association's legal counsel that an interpretation adopted by the Board is not wholly unreasonable shall conclusively establish the validity of such interpretation.

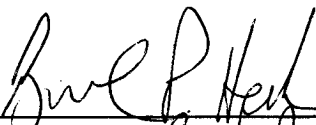
15.10 **Applicable Statutes.** The validity, application, and construction of this Declaration and its exhibits shall be governed by the Laws of Florida, as they exist on the date of recording this Declaration.

**Rights Limited to Express Terms of Governing Documents.** Every Member of the Association acknowledges that its rights, duties or obligations are limited to the express terms of the Declaration, Articles of Incorporation, Bylaws and the Rules and Regulations (Governing Documents).

## DECLARATION

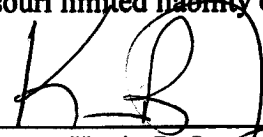
IN WITNESS WHEREOF, JDC Fort Myers, L.L.C., a Missouri limited liability company, hereby executes this Declaration.

WITNESSES:

  
Print Name: Brandon P. Heck

  
Print Name: Matt Cook

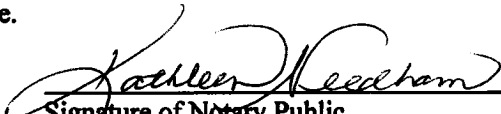
JDC FORT MYERS, L.L.C.,  
a Missouri limited liability company

By:   
Print Name Kevin R. Jones  
Its: Manager

STATE OF MISSOURI                     )  
COUNTY OF JACKSON                )

The foregoing instrument was executed before me this 26 day of February, 2016, by Kevin R. Jones, as Manager of JDC Fort Myers, L.L.C., a Missouri limited liability company, on behalf of the company, who is personally known to me.

(Seal)  
KATHLEEN NEEDHAM  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Jackson County  
My Commission Expires Apr. 12, 2016  
Commission # 12413871

  
Signature of Notary Public  
  
Printed Name of Notary Public

DECLARATION

CONSENTING OWNER:

WITNESSES

  
Print Name: JAMES D. VOGEL

  
Print Name: Susan Y. Gordon

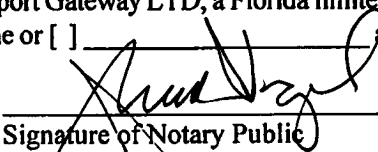
STATE OF Florida )  
COUNTY OF Collier )

The foregoing instrument was executed before me this 11<sup>th</sup> day of March, 2016, by Asa W. Candler, III, as \* of Airport Gateway LTD, a Florida limited partnership, on behalf of the partnership, who ☒ is personally known to me or [ ] as identification.

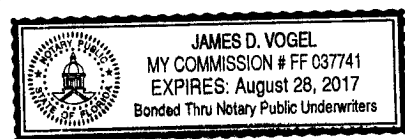
(Seal)

\* President of Airport Gateway  
Development Co., Inc., as  
General Partner

Airport Gateway LTD, a Florida limited  
partnership  
By: Airport Gateway Development  
Co., Inc. G.P.  
By:   
Print Name: Asa W. Candler, III  
Its: President

  
Signature of Notary Public

Printed Name of Notary Public



DECLARATION

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**DECLARATION**

**EXHIBIT "A"**

**TREELINE AIRPORT PARK**

A PARCEL OF LAND LOCATED IN SECTION 26, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 26, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE ALONG THE NORTH LINE OF SAID SECTION 26 NORTH 88°05'39" EAST, A DISTANCE OF 114.79 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED;

THENCE CONTINUE ALONG SAID NORTH LINE NORTH 88°05'39" EAST, A DISTANCE OF 1,131.67 FEET TO A POINT ON THE WEST RIGHT-OF-WAY OF TREELINE AVENUE, PER LEE COUNTY RIGHT-OF-WAY MAP, PROJECT #20033734; THENCE ALONG SAID WEST RIGHT-OF-WAY FOR THE FOLLOWING (4) FOUR COURSES AND DISTANCES, 1.) SOUTH 01°04'42" EAST, A DISTANCE OF 1163.03 FEET TO A POINT ON A CURVE TO THE RIGHT; 2.) THENCE SOUTHERLY 56.94 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 90.00 FEET, A CENTRAL ANGLE OF 36°14'57", (CHORD BEARING SOUTH 17°02'46" WEST, A DISTANCE OF 56.00 FEET) TO A POINT ON A REVERSE CURVE TO THE LEFT; 3.) THENCE SOUTHERLY 107.21 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 65.00 FEET, A CENTRAL ANGLE OF 94°30'10", (CHORD BEARING SOUTH 12°04'50" EAST, A DISTANCE OF 95.46 FEET); 4.) THENCE SOUTH 01°05'08" EAST, A DISTANCE OF 9.87 FEET TO A POINT ON THE NORTH LINE OF SOUTHWEST INTERNATIONAL COMMERCE PARK AS RECORDED IN INSTRUMENT NUMBER 2006000472395 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE ALONG SAID NORTH LINE SOUTH 87°58'22" WEST, A DISTANCE OF 1257.93 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 26; THENCE ALONG SAID WEST LINE NORTH 00°37'05" WEST, A DISTANCE OF 662.70 FEET TO A POINT ON THE SOUTH LINE OF THE LOT 20 JETPORT-INTERSTATE COMMERCE PARK PLAT AS RECORDED IN PLAT BOOK 72, PAGES 6-7 OF SAID PUBLIC RECORDS; THENCE ALONG SAID SOUTH LINE NORTH 88°04'02" EAST, A DISTANCE OF 114.95 FEET TO THE EAST LINE OF SAID PLAT; THENCE ALONG SAID EAST LINE AND THE EXTENSION THEREOF NORTH 00°38'14" WEST, A DISTANCE OF 488.48 FEET TO A POINT ON THE BOUNDARY OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3111, PAGE 563 OF SAID PUBLIC RECORDS; THENCE ALONG SAID BOUNDARY NORTH 46°06'40" WEST, A DISTANCE OF 120.25 FEET TO A POINT ON THE SOUTHEAST RIGHT-OF-WAY OF JETPORT LOOP; THENCE ALONG THE SOUTHEAST RIGHT-OF-WAY OF JETPORT LOOP NORTH 43°54'44" EAST, A DISTANCE OF 122.29 FEET TO THE POINT OF BEGINNING.

CONTAINING 36.34 ACRES, MORE OR LESS.

**EXHIBIT "B"**  
**ARTICLES OF INCORPORATION**  
**OF**  
**TREELINE AIRPORT PARK**  
**PROPERTY OWNERS ASSOCIATION, INC.**

The undersigned, acting as the incorporator, under the laws of the State of Florida, Florida Statutes, Chapter 617, hereby sets forth and declares:

**ARTICLE I**

The name of this corporation is TREELINE AIRPORT PARK PROPERTY OWNERS ASSOCIATION, INC., a Florida not for profit corporation (the "Association").

**ARTICLE II**

The nature of the business to be transacted shall be to engage in any activity or business permitted under the laws of the United States and of this State, pursuant to Chapter 617 of the Florida Statutes. The Association is organized for the purpose of providing an entity for the operation of a commercial development known as Treeline Airport Park, located in Lee County, Florida.

The Association is organized and shall exist upon a non-stock basis as a non-profit corporation under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or inure to the private benefit of any Member, Director or officer of the Association. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of an Association not for profit under Florida law, including those powers set forth in Chapter 617, Florida Statutes, except as limited or modified by these Articles, the Declaration of Covenants, Conditions and Restrictions or the By-Laws of this Association, and it shall have all of the powers and duties reasonably necessary to operate the Development pursuant to the Declaration as it may hereafter be amended including, but not limited to, the following:

(A) To levy and collect assessments against all Members of the Association to defray the costs, expenses and losses of the Association, and to use the proceeds of assessments in the exercise of its power and duties.

(B) To own, lease, maintain, repair, replace or operate the Common Areas.

(C) To purchase insurance upon the Common Areas for the protection of the Association and its Members.

(D) To reconstruct improvements after casualty and to make further improvements of the Common Areas.

**TREELINE AIRPORT PARK-ARTICLES**

Page 1

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OF FLORIDA

(E) To make, amend and enforce reasonable rules and regulations governing the use of the Common Areas and the operation of the Association.

(F) To sue and be sued, and to enforce the provisions of the Declaration, these Articles and the By-Laws of the Association.

(G) To contract for the management and maintenance of the Common Areas and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by the Declaration to be exercised by the Board of Directors or the membership of the Association.

(H) To employ accountants, attorneys, architects or other professional personnel to perform the services required for proper operation of the Properties.

(I) To acquire, own and convey real property and to enter into agreements or acquire leaseholds, easements, memberships and other possessory or use interests in lands or facilities. It has this power whether or not the lands or facilities are contiguous to the lands of the Development, if they are intended to provide enjoyment, recreation or other use or benefit to the Members.

(J) To borrow or raise money for any purposes of the Association; to draw, make, accept, endorse, execute and issue promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other negotiable or non-negotiable instruments and evidence of indebtedness; and to secure the payment of any thereof, and of the interest therein, by mortgage pledge, conveyance or assignment in trust, of the whole or any part of the rights or property of the Association.

(K) To enforce the conditions of the permit issued by South Florida Water Management District ("SFWMD") for the Development.

(L) To be the responsible entity to operate and maintain the surface water management system as permitted by SFWMD, including but not limited to, all lakes, retention areas, culverts and related appurtenances.

Except as provided herein and in the Declaration, all funds and title to all property acquired by the Association shall be held for the benefit of the Members in accordance with the provisions of the Declaration, these Articles of Incorporation, and the By-Laws.

### ARTICLE III

The Association shall have perpetual existence.

### ARTICLE IV

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The qualifications required for membership, and the manner in which Members shall be admitted to membership, shall be as stated in the Declaration and/or the By-Laws of the Association. Each and every owner of a lot in this subdivision shall be a Member of this Association.

### ARTICLE V

The street address of the initial principal office of this Association is c/o Pavese Law Firm, 1833 Hendry Street, Fort Myers, FL 33901. The name of the initial registered agent of this Association is Charles Mann, and the address of the initial registered office is 1833 Hendry Street, Fort Myers, Florida 33901.

Having been named to accept service of process for., I hereby agree to act in this capacity and I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties.

ACCEPTED By: \_\_\_\_\_

Charles Mann

### ARTICLE VI

The number of Directors shall initially consist of three (3) or more but may be increased pursuant to the By-Laws, and in no event shall there be fewer than three (3) in number. Directors shall be elected, or appointed to fill a vacancy, in accordance with the By-Laws of the Association.

### ARTICLE VII

The name and mailing address of the Directors, President, Vice President and Secretary/Treasurer, who, subject to the By-Laws of the Association shall hold office for the first year of existence of this Association or until his or her successor is elected and has qualified, are:

| <u>NAME</u>                      | <u>ADDRESS</u>                                                    |
|----------------------------------|-------------------------------------------------------------------|
| President: Kevin R. Jones        | c/o Pavese Law Firm<br>1833 Hendry Street<br>Fort Myers, FL 33901 |
| Vice President: Nick Jones       | c/o Pavese Law Firm<br>1833 Hendry Street<br>Fort Myers, FL 33901 |
| Secretary/Treasurer: Chris Jones | c/o Pavese Law Firm<br>1833 Hendry Street<br>Fort Myers, FL 33901 |

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#### **ARTICLE VIII**

The Association is empowered to do and perform all acts reasonably necessary to accomplish the purposes of the Association, which acts are not inconsistent with the powers provided for in Chapter 617, Florida Statutes.

#### **ARTICLE IX**

The name and address of the incorporator of this corporation is as follows:

##### **NAME**

##### **ADDRESS**

Charles Mann

1833 Hendry Street,  
Fort Myers, FL 33901

#### **ARTICLE X**

By-Laws of the Association may be adopted, made, altered or rescinded by the Directors at any regular meeting or any special meeting called for that purpose, so long as they are not inconsistent with the provision of these Articles.

#### **ARTICLE XI**

Amendment to the Articles of Incorporation may be proposed by any Director at any regular or special business meeting of the Board of Directors at which a majority is present and, if obtaining a two-thirds (2/3) vote of the Board of Directors present and voting at such meeting properly called and noticed as provided in the By-Laws, shall be submitted to a vote of the membership. If approved by a two-thirds (2/3) affirmative vote of the membership at a meeting of the Members properly called and noticed as provided in the By-Laws, such Amendment shall be forwarded to the Secretary of State of the State of Florida and filed and shall become effective upon issuance, by said officer, of a certificate reflecting same.

#### **ARTICLE XII**

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of the Members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit Association, association, trust or other organization to be devoted to such similar purposes.

#### **ARTICLE XIII**

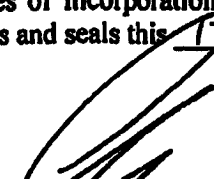
To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every officer of the Corporation against all expenses and liabilities, including attorneys fees, actually and reasonably incurred by or imposed on him in connection with any legal

proceeding (or settlement or appeal of such proceeding) to which he may be a party because of his being or having been a Director or officer of the Association. The foregoing right of indemnification shall not be available if a judgment or other final adjudication established that his actions or omissions to act were material to the cause adjudicated and involved:

- (A) Willful misconduct or a conscious disregard for the best interest of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.
- (B) A violation of criminal law, unless the Director or officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.
- (C) A transaction from which the Director or officer derived an improper personal benefit.
- (D) Wrongfully conduct by Directors or officers appointed by the Developer, in a proceeding brought by or on behalf of the Association.

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

IN WITNESS WHEREOF, I Charles Mann, being the incorporator of the Corporation for the purpose of forming a corporation under the laws of the State of Florida do make, subscribe, acknowledge and file the foregoing Articles of Incorporation, hereby certifying that the facts therein stated are true, and accordingly set our hands and seals this 17<sup>th</sup> day of November, 2015.

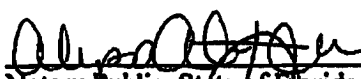
  
 \_\_\_\_\_  
 CHARLES MANN

STATE OF FLORIDA  
 COUNTY OF LEE

I HEREBY CERTIFY that before me the undersigned authority, duly authorized to take acknowledgments and administer oaths, personally appeared Charles Mann, who is known to me to be the person who made and subscribed to the foregoing Articles of Incorporation, and certifies and acknowledges that he made and executed said certificate for the use and purposes therein expressed.

WITNESS my hand and official seal this 17<sup>th</sup> day of November, 2015.



  
 \_\_\_\_\_  
 Notary Public, State of Florida  
 ALYSSA ALTENHOFEN

My Commission Expires:

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 SECRETARY OF STATE  
 NOTARY PUBLIC - FLORIDA

Articles of Amendment  
 to  
 Articles of Incorporation  
 of

Treeline Airport Park Property Owners Assocaiton, Inc.

(Name of Corporation as currently filed with the Florida Dept. of State)

N15000011079

(Document Number of Corporation (if known))

Pursuant to the provisions of section 617.1006, Florida Statutes, this *Florida Not For Profit Corporation* adopts the following amendment(s) to its Articles of Incorporation:

A. If amending name, enter the new name of the corporation:

N/A

*The new name must be distinguishable and contain the word "corporation" or "incorporated" or the abbreviation "Corp." or "Inc." "Company" or "Co." may not be used in the name.*

B. Enter new principal office address, if applicable:  
 (Principal office address MUST BE A STREET ADDRESS)

N/A

C. Enter new mailing address, if applicable:  
 (Mailing address MAY BE A POST OFFICE BOX)

N/A

D. If amending the registered agent and/or registered office address in Florida, enter the name of the new registered agent and/or the new registered office address:

Name of New Registered Agent: N/A

New Registered Office Address:

(Florida street address)

(City)

Florida

(Zip Code)

New Registered Agent's Signature, if changing Registered Agent:

*I hereby accept the appointment as registered agent. I am familiar with and accept the obligations of the position.*

*Signature of New Registered Agent, if changing*

***(Attach additional sheets, if necessary)***

***P = President; V= Vice President; T= Treasurer; S= Secretary; D= Director; TR= Trustee; C = Chairman or Clerk; CEO = Chief Executive Officer; CFO = Chief Financial Officer. If an officer/director holds more than one title, list the first letter of each office held. President, Treasurer, Director would be PTD.***

**Example:**

| <b>Type of Action</b><br><b>(Check One)</b> | <b>Title</b> | <b>Name</b> | <b>Address</b> |
|---------------------------------------------|--------------|-------------|----------------|
|---------------------------------------------|--------------|-------------|----------------|

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**E. If amending or adding additional Articles, enter change(s) here:**  
**(attach additional sheets, if necessary). (Be specific)**

**N/A**

The date of each amendment(s) adoption: \_\_\_\_\_, if other than the date this document was signed.

Effective date if applicable: February 8, 2016

(no more than 90 days after amendment file date)

**Note:** If the date inserted in this block does not meet the applicable statutory filing requirements, this date will not be listed as the document's effective date on the Department of State's records.

Adoption of Amendment(s) **(CHECK ONE)**

- ☒ The amendment(s) was/were adopted by the members and the number of votes cast for the amendment(s) was/were sufficient for approval.
- ☐ There are no members or members entitled to vote on the amendment(s). The amendment(s) was/were adopted by the board of directors.

Dated

2/11/2016

Signature

(By the chairman or vice chairman of the board, president or other officer--if directors have not been selected, by an incorporator -- if in the hands of a receiver, trustee, or other court appointed fiduciary by that fiduciary)

Kevin R. Jones

(Typed or printed name of person signing)

President

(Title of person signing)

**EXHIBIT "C"**  
**BYLAWS**  
**OF**  
**TREELINE AIRPORT PARK**  
**PROPERTY OWNERS ASSOCIATION, INC.**

**1. GENERAL** These are the Bylaws of TREELINE AIRPORT PARK PROPERTY OWNERS ASSOCIATION, INC. (hereinafter the "Association"), a Florida corporation not for profit organized for the purposes set forth in the Articles of Incorporation.

**1.1 Principal Office.** The principal office of this corporation shall initially be located at and subsequently at such other place as may be established by resolution of the Board of Directors.

**1.2 Definitions.** All terms defined in the Declaration of Covenants, Condition and Restrictions for (the "Declaration of Covenants") to which these Bylaws were attached as an exhibit when it was originally recorded, shall be used with the same meanings as defined therein.

**2. MEMBERSHIP AND VOTING RIGHTS.** The classes of membership shall be as more fully set forth in Article 4 of the Declaration of Covenants.

**2.1 Membership.** Every person or entity who or which is a record owner of a fee or undivided fee interest in any Tract which is subject to the Declaration shall be a member of the Association, provided that any such person or entity who merely holds record ownership merely as security for the performance of an obligation shall not be a Member of the Association.

**2.2 Voting Rights.** The Association shall have one (1) class of voting membership and the voting rights are set out according to the formula used in Exhibit D to the Declaration.

**Class A.** Class A Members shall be all those owners, as defined in Section 1.11 of the Declaration. Class A Members shall be entitled to the number of votes assigned to its Tract(s) in accordance with the formula set forth in Exhibit "D" to the Declaration.

In the event that Mortgagee or other party acquires title to a Tract through foreclosure or deed in lieu of foreclosure, such party shall have the class of membership last held by the owner of the Tract to which title was so acquired.

**2.3 General Matters.** When reference is made herein, or in the Declaration, Bylaws, Management Contracts, or otherwise, to a majority or specific percentage of the Members, such reference shall be deemed to be reference to a majority or specific percentage of the votes of the Members present at a duly constituted meeting thereof (i.e., one for which proper notice has been given and at which a quorum exists).

**2.4 Rights and Privileges of Members.**

(A) Every Member shall have the right to:

- (1) Have its vote cast by his voting representative at the meetings of the Members;
- (2) Serve on the Board if elected;
- (3) Serve on committees; and
- (4) Attend membership meetings.

Each Member is encouraged to take an active interest in Association affairs.

(B) Every Member in good standing shall have the privilege of using and enjoying the Common Areas in accordance with the type of membership held by the Member, subject to the rules of the Association and the right of the Association to charge admission and other fees for the use of any facilities.

(C) A Member is in good standing if it is current in the payment of all assessments and other financial obligations to the Association, and his membership is not suspended.

### **3. MEMBERS' MEETINGS.**

**3.1 Annual Meeting.** The annual meeting shall be held in Lee County during either March or April of each year, at a day, place and time designated by the Board of Directors, for the purpose of electing Directors and transacting any other business duly authorized to be transacted by the Members. The annual meeting is a general meeting, and unless the law or the Governing Documents require otherwise, notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called.

**3.2 Special Members' Meetings.** Special Members' meetings must be held whenever called for by the President or by a majority of the Directors, and must be promptly called by the Board upon receipt of a written request signed by the Members entitled to cast at least ten percent (10%) of the voting interests. Such requests shall be in writing and shall state the purpose or purposes of the meeting. Business at any special meeting shall be limited to the item specified in the request or contained in the notice of meeting.

**3.3 Quorum.** A quorum shall be attained at a Members meeting by the presence in person of the Members for at least ten percent (10%) of the total voting interests.

**3.4 Vote Required to Transact Business.** The acts or resolution approved by at least a majority of the votes cast at a duly called meeting at which a quorum has been attained shall be the act of the Members, unless a higher vote is specifically required by law or by the Governing Documents.

**3.5 Notice of Meetings.** Written notice of meetings shall be mailed or hand-delivered to the Association members and to the Declarant Member, if any. Thereafter, it shall be the responsibility of the Association members to notify the owners of all Tracts. The notices must be mailed or delivered by the Association not less than fourteen (14) days prior to the date of the meeting.

**3.6 Adjourned Meetings.** Any duly called meeting of the Members may be adjourned to be reconvened at a later time by vote of the majority of the voting interests present, regardless of whether a quorum has been attained. Unless the Bylaws require otherwise, adjournment of an annual or special meeting to a different date, time or place must be announced at that meeting before an adjournment is taken, or reasonable notice must be given of the new date, time, or place. Any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting.

**3.7 Order of Business.** The order of business at Members' meetings shall be substantially as follows:

- (A) Determination that a quorum has been attained.
- (B) Reading or waiver of reading of minutes of last Members' meeting.
- (C) Reports of Officers
- (D) Reports of Committees
- (E) Election of Directors (when appropriate)
- (F) Unfinished Business
- (G) New Business
- (H) Adjournment

**3.8 Minutes.** Minutes of all meetings of the Members must be maintained in written form, or in another form that can be converted into written form within a reasonable time.

**3.9 Parliamentary Rules.** Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the law, with the Declaration of Covenants, or with these Bylaws. The presiding officer may appoint a Parliamentarian, but the decision of the presiding officer on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

**3.10 Action by Members without a Meeting.** Except the holding of the annual meeting and annual election of Directors, any action required or permitted to be taken at a meeting of the Members may be taken by mail without a meeting if written instruments expressing approval of the action proposed to be taken are signed and returned by Members having not less than the minimum number of votes that would be necessary to take such action at a meeting at which all of the voting interests were present and voting. If the requisite number of written consents are received by the Secretary within ten (10) days after the earliest date which appears on any of the consent forms received, the proposed action so authorized shall be of full force and effect as if the action had been approved at a meeting

of the Members held on the tenth (10th) day. Within five (5) days thereafter, the Board shall send written notice of the action taken to all Members who have not consented in writing. Nothing in this paragraph affects the rights of Members to call a special meeting of the membership, as provided for by Section 3.2 above, or by law. Meetings may be held by other means if determined by a unanimous vote of the Board.

**4. BOARD OF DIRECTORS.** The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration of Covenants, Articles of Incorporation, and these Bylaws, shall be exercised by the Board, subject to the approval or consent of the Members only when such is expressly required.

**4.1 Powers.** The Board shall have the authority to:

(A) Manage and control the affairs of the Association.

(B) Appoint and remove at its pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient. Nothing in these Bylaws shall be construed to prohibit the employment of any member, officer or Director of the Association in any capacity whatsoever;

(C) Establish, levy, assess and collect any assessment or charge provided for in the Governing Documents;

(D) Designate one or more financial institution(s) as depository for Association funds, and the officer(s) authorized to make withdrawals therefrom;

(E) With the prior consent of at least a majority of the voting interests, borrow money for Association purposes;

(F) Adopt, amend or revoke rules and regulations relating to the use of Common Areas, and such sanctions for noncompliance therewith, as it may deem necessary for the best interest of the Association and its Members.

(G) Cause the Association to employ sufficient personnel to adequately perform the responsibilities of the Association;

(H) Negotiate and enter into contracts for the maintenance and operation of the Common Areas;

(I) Make improvements to the Common Areas;

(J) Establish committees of the Association and appoint the Members thereof. It may assign to such committees responsibilities and duties not inconsistent with the provisions of these Bylaws as it may deem appropriate;

(K) Acquire property, real or personal, and enter into agreements with any persons, including Declarant, relating to the orderly transfer of property from said person to the Association and such other matters as the Board may deem appropriate; and

(L) Perform all other acts not inconsistent with law or the Governing Documents and necessary for the proper functioning of the Association.

**4.2 Management by Directors.** The property, business and affairs of the Association shall be managed and conducted by a Board of Directors of no fewer than three (3) nor more than five (5) Members, as determined per Section 4.3 below. The Board of Directors shall be chosen by the Class A Members, however, so long as the Declarant or the Consenting Owner hold Tracts for sale in the ordinary course of business, they shall each be entitled to at least one seat on the Board of Directors.

**4.3 Vacancies.** If a Director shall for any reason cease to be a Director, the remaining Directors shall appoint a successor to fill the vacancy for the balance of the unexpired term, provided that a vacancy in a seat previously filled by a Declarant appointee or a person elected by Class A Members shall be filled with a similarly situated person.

**4.4 Term of Office.** Directors elected by Class A Members shall serve commencing upon their election and continuing until the next Annual Meeting of the Association (but they may succeed themselves) or until their successors are duly elected and have qualified.

**4.5 Vacancies and Removal.**

(A) Except as to vacancies resulting from removal of Directors by Members (as addressed in subsection (B) below), vacancies in the Board of Directors occurring between Annual Meetings of Members shall be filled by the remaining Directors at any Board meeting.

(B) Any Director elected by the Members may be removed by concurrence of a majority of the votes of the Class A Members at a special meeting called for that purpose or by written agreement signed by the Members entitled to cast a majority of the Class A votes. The vacancy in the Board of Directors so created shall be filled by the Members at a special meeting called for such purpose, or by the Board of Directors if such meeting does not occur within five (5) days of the removal.

(C) If a vacancy on the Board of Directors results in the inability to obtain a quorum of Directors in accordance with these Bylaws, any Owner may apply to the Circuit Court within whose jurisdiction the Lands are located for the appointment of a receiver to manage the affairs of the Association. At least thirty (30) days prior to applying to the Circuit Court, the

Owner shall mail to the Association a notice describing the intended action and giving the Association an opportunity to fill the vacancy(ies) in accordance with these Bylaws. If, during such time, the Association fails to fill the vacancy(ies), the Owner may proceed with the petition. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs and attorney fees. The receiver shall have all powers and duties of a duly constituted Board of Directors, and shall serve until the Association fills the vacancy(ies) on the Board sufficient to constitute a quorum in accordance with these Bylaws.

**4.6 Term.** Except as provided herein to the contrary, the term of each Director's service shall extend until the next Annual Meeting and subsequently until his successor is duly elected and has taken office, or until he is removed in the manner elsewhere provided.

**4.7 Organizational Meeting.** An organizational meeting of a new Board of Directors shall be held within thirty (30) days after the election of new Directors at such place and time as may be fixed by the new Directors at the meeting when they were elected.

**4.9 Regular Meetings.** Regular meetings of the Board shall be held at such time and place in Lee County, Florida, or as shall be determined from time to time by the Directors. A regular meeting of the Board of Directors is any meeting held according to a regular weekly, monthly or other periodic schedule adopted from time to time by the Board. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least ten (10) days before the day named for such meeting. At regular meetings any business of the Association may be transacted. If any Director elected by the Members shall be absent for any reason from three (3) consecutive regular meetings of the Board, the Board may, by vote of at least a majority of the whole Board taken at the next meeting, declare the office of said Director to be vacant, and may appoint a successor.

**4.9 Special Meetings.** Special meetings of the Board are all meetings other than the annual organizational meeting and regular meetings. Special meetings may be called by the President, the Secretary, or by a majority of the Directors. Not less than two (2) days notice of a special meeting shall be given to each Director, personally or by mail, facsimile, telephone or telegram, which notice shall state the time, place, and purposes of the meeting. Business conducted at a special meeting shall be limited to the items specified in the notice of the meeting.

**4.10 Waiver of Notice by Directors.** Any Director may waive notice of a Board meeting before or after the meeting, and such waiver shall be deemed equivalent to the receipt of notice. Attendance at a meeting by any Director constitutes waiver of notice, unless that Director objects to the lack of notice at the beginning of the meeting.

**4.11 Board Meetings; Notice to Members.** A meeting of the Board of Directors occurs whenever a quorum of the Board gathers and conducts Association business. All meetings of the Board shall be open to all Members, except as otherwise provided by law. Notice of all Board meetings shall be provided least seventy-two (72) hours in advance of a meeting, except in an emergency. An

assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of such assessments.

**4.12 Quorum of Directors.** A quorum at a Board meeting shall exist only when a majority of all Directors are present in person. Directors may not vote by proxy or secret ballots at Board meetings, except that secret ballots may be used in electing officers. Any Director has a right to participate in any meeting of the Board, or meeting of an executive or other committee, by means of a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person.

**4.13 Vote Required.** Except as otherwise required by law or the Governing Documents, the acts approved by a majority of the Directors present and voting at a duly called Board meeting at which a quorum exists shall constitute the acts of the Board of Directors.

**4.14 Presumption of Assent.** A Director who is present at a meeting of the Board shall be deemed to have voted in favor of the point of view that prevails on any question, unless he voted against such action or abstained from voting because of an asserted conflict of interest. The vote of each Director on each matter considered, including abstention because of an asserted conflict of interest, must be recorded in the minutes of the meeting.

**4.15 Adjourned Meetings.** The majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a later time. When the meeting is reconvened, provided a quorum exists, any business that might have been transacted at the meeting originally called may be transacted without further notice.

**4.16 The Presiding Officer.** The President of the Association, or in his absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of those present.

**4.17 Compensation of Directors and Officers.** Neither Directors nor officers shall receive compensation for their services as such. Directors may not also be employees of the Association. Directors and officers may be compensated for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.

**4.18 Emergency Powers.** In the event of an "emergency", the Board of Directors of the Association may exercise the emergency powers as described in this Section, and any other emergency powers authorized by Sections 617.0207, and 617.0303, Florida Statutes (2014), as amended from time to time.

(A) The Board may name as assistant officers persons who are not Directors, which assistant officers shall have the same authority as the executive officers of whom they are assistant during the period of the emergency, to accommodate the incapacity of any officer of the Association.

(B) The Board may relocate the principal office or designate alternative principal offices or authorize the officers to do so.

(C) During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any reasonable manner. The Director or Directors in attendance at such a meeting shall constitute a quorum.

(D) Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttable presumption of being reasonable and necessary.

(E) Any officer, Director or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency Bylaws shall incur no liability for doing so, except in the case of willful misconduct.

(F) The provisions of these emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

## **5. OFFICERS.**

**5.1 Officers and Elections.** The executive officers of the Association shall be a President, and one or more Vice-Presidents, who must be Directors of the Association, as well as a Treasurer and a Secretary, all of whom shall be elected annually by majority vote of the Board of Directors. Any officer may be removed, with or without cause, by vote of a majority of all Directors at any meeting. Any person except the President may hold two or more offices. The Board of Directors shall, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President.

**5.2 President.** The President shall be the chief executive officer of the Association; shall preside at all meetings of the Members and Directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. The President shall execute bonds, mortgages and other contracts or documents requiring the seal of the Association, except where such are permitted by law to be otherwise executed, and the power to execute is delegated by the Board of Directors to another officer or agent of the Association.

**5.3 Vice-Presidents.** The Vice-Presidents in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and they shall perform such other duties as the Board of Directors shall prescribe.

**5.4 Secretary.** The Secretary shall attend the meetings of the Board and meetings of the Members, and shall record all votes and the minutes of all proceedings in a book or books to be kept for the purpose, and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of the Members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. He shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the Governing Documents. Any of the foregoing duties may be performed by an Assistant Secretary, if any has been designated.

**5.5 Treasurer.** The Treasurer shall have responsibility for the collection, safe-keeping, and disbursement of funds and securities of the Association, shall cause to be kept full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors, and prepare the budget for the Association. He shall disburse the funds of the Association, making proper vouchers for such disbursements, and shall render to the President and Directors, at the regular meetings of the Board, or whenever they may require it, an account of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated.

**6. FISCAL MATTERS.** The provisions for assessments and fiscal management of the Association set forth in the Declaration of Covenants shall be supplemented by the following provisions:

**6.1 Depository.** The Association shall maintain its accounts in federally insured accounts at financial institutions doing business in the United States as may be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board. The Board may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities, and other similar investment vehicles, provided they are federally insured, or backed by the full faith and credit of the United States.

**6.2 Budget.** The Board of Directors shall, at a November meeting each year, adopt a budget of general expenses for the next fiscal year. The budget must reflect estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the Association, the Declarant, or another person. The Association shall provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. The proposed budget shall be detailed and shall show the amounts budgeted by accounts and expense classifications.

**6.3 Reserves.** The Board may establish in the budgets one or more reserve accounts for contingencies, operating expenses, repairs, improvements, capital expenditures or deferred

maintenance. The purpose of the reserves is to provide financial stability and to avoid the need for special assessments. The amounts proposed to be so reserved shall be shown in the proposed annual budgets each year. These funds may be spent only for purposes for which they were reserved, unless another use is approved by unanimous consent of the entire Board.

**6.4 Fidelity Bonds.** The Treasurer, and all other officers who are authorized to sign checks, and all Directors and employees of the Association handling or responsible for Association funds, shall be bonded in such amounts as determined by the Board of Directors. The premiums on such bonds shall be paid by the Association. The requirements of this section may be waived by the Board.

**6.5 Accounts and Accounting Procedures.** The financial and accounting records of the Association, must be kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least seven (7) years.

**6.6 Financial Reporting.** The Association shall prepare an annual financial report within sixty (60) days after the close of the fiscal year. The Association shall, within ten (10) business days after the report is prepared, provide each member with a copy of the report, or a written notice that a copy of the financial report is available upon request at no charge to the member.

**6.7 Audits.** A formal certified audit of the accounts of the Association, if required by law, or by a majority of the voting interests, or by a majority of the Board of Directors, shall be made by an independent certified public accountant, and a copy of the audit report shall be available on request to each member.

**6.8 Application of Payments and Commingling of Funds.** All monies collected by the Association may be commingled, for investment purposes only, in a single fund, or divided into two or more funds, as determined by the Board of Directors. The books and records of the Association shall be kept in conformity to generally accepted accounting principles, and the audit and accounting guide for Common Interest Realty Associations of the American Institute of Certified Public Accountants. All payments on account by an Owner shall be applied as to interest, delinquencies, costs and attorney fees, other charges, and annual or special assessments, in such manner and amounts as the Board of Directors may determine, or as may be required by law.

**6.9 Fiscal Year.** The fiscal year for the Association shall begin on the first day of January each year. The Board of Directors may change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed in the Internal Revenue Code of the United States.

**6.10 Payment of Assessments.** Assessments shall be collected as set forth in the Declaration.

**7. AMENDMENT OF BYLAWS.** These Bylaws may be amended from time to time by resolution adopted by a majority of the Board of Directors and approved by Members holding two-thirds (66.67%) percent of the Voting Rights, so long as no amendment impairs or dilutes any right or title

of a Member vested in it under a deed or other recorded instrument applicable to the Tract owned by such Member unless made in accordance with provision of such deed or instrument.

## **8. MISCELLANEOUS.**

**8.1. Gender Number.** Whenever the masculine or singular form of the pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

**8.2 Severability.** Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

**8.3 Conflict.** If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration of Covenants or the Articles of Incorporation of the Association, the provisions of the Declaration of Covenants or Articles of Incorporation shall prevail over the provisions of these Bylaws and, as provided in the Declaration, the Declaration of Covenants shall prevail over any inconsistent provision in the Articles of Incorporation.

EXHIBIT "D"

VOTING INTEREST

|           | Acreage      | Voting Rights  | Assessment Obligation |
|-----------|--------------|----------------|-----------------------|
| Tract "A" | 13.85        | 444.00         | 44.4%                 |
| Tract "X" | 17.34        | 556.00         | 55.6%                 |
| Total:    | <u>31.19</u> | <u>1000.00</u> | <u>100%</u>           |

**EXHIBIT "E"**



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
ENVIRONMENTAL RESOURCE PERMIT NO. 36-04033-P-02  
DATE ISSUED: April 1, 2015**

**PERMITTEE:** J D C PROPERTY GROUP, L L C  
4520 MADISON AVE.  
SUITE 100  
KANSAS CITY, MO 64111

**PROJECT DESCRIPTION:** This Environmental Resource Permit Modification authorizes construction and operation of a stormwater management system serving 22.49 acres of commercial development for a project known as Treeline Distribution Center.

**PROJECT LOCATION:** LEE COUNTY, SEC 26 TWP 45S RGE 25E

**PERMIT DURATION:** See Special Condition No:1.

This is to notify you of the District's agency action for Permit Application No. 140609-1, dated June 9, 2014. This action is taken pursuant to the provisions of Chapter 373, Part IV, Florida Statutes (F.S.).

Based on the information provided, District rules have been adhered to and an Environmental Resource Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 18 General Conditions (See Pages : 2 - 4 of 6),
3. the attached 17 Special Conditions (See Pages : 5 - 6 of 6) and
4. the attached 3 Exhibit(s)

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

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY THAT this written notice has been mailed or electronically transmitted to the Permittee (and the persons listed in the attached distribution list) this 1st day of April, 2015, in accordance with Section 120.60(3), F.S. Notice was also electronically posted on this date through a link on the home page of the District's website ([my.sfwmd.gov/ePermitting](http://my.sfwmd.gov/ePermitting)).

BY: \_\_\_\_\_

Ricardo A. Valera, P.E.  
Bureau Chief - Environmental Resource Compliance  
Lower West Coast Service Center

## **NOTICE OF RIGHTS**

As required by Sections 120.569(1), and 120.60(3), Fla. Stat., the following is notice of the opportunities which may be available for administrative hearing or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

### **RIGHT TO REQUEST ADMINISTRATIVE HEARING**

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

### **FILING INSTRUCTIONS**

The Petition must be filed with the Office of the District Clerk of the SFWMD. Filings with the District Clerk may be made by mail, hand-delivery, or e-mail. Filings by facsimile will not be accepted after October 1, 2014. A petition for administrative hearing or other document is deemed filed upon receipt during normal business hours by the District Clerk at SFWMD headquarters in West Palm Beach, Florida. Any document received by the office of the District Clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day. Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the District Clerk, P.O. Box 24680, West Palm Beach, Florida 33416.
- Filings by hand-delivery must be delivered to the Office of the District Clerk. Delivery of a petition to the SFWMD's security desk does not constitute filing. To ensure proper filing, it will be necessary to request the SFWMD's security officer to contact the Clerk's office. An employee of the SFWMD's Clerk's office will receive and file the petition.
- Filings by e-mail must be transmitted to the District Clerk's Office at [clerk@sfwmd.gov](mailto:clerk@sfwmd.gov). The filing date for a document transmitted by electronic mail shall be the date the District Clerk receives the complete document. A party who files a document by e-mail shall (1) represent that the original physically signed document will be retained by that party for the duration of the proceeding and of any subsequent appeal or subsequent proceeding in that cause and that the party shall produce it upon the request of other parties; and (2) be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed.

#### **INITIATION OF AN ADMINISTRATIVE HEARING**

Pursuant to Rules 28-106.201 and 28-106.301, Fla. Admin. Code, initiation of an administrative hearing shall be made by written petition to the SFWMD in legible form and on 8 and 1/2 by 11 inch white paper. All petitions shall contain:

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

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

If the SFWMD takes action with substantially different impacts on water resources from the notice of intended agency decision, the persons who may be substantially affected shall have an additional point of entry pursuant to Rule 28-106.111, Fla. Admin. Code, unless otherwise provided by law.

#### **MEDIATION**

The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401-405, Fla. Admin. Code. The SFWMD is not proposing mediation for this agency action under Section 120.573, Fla. Stat., at this time.

#### **RIGHT TO SEEK JUDICIAL REVIEW**

Pursuant to Sections 120.60(3) and 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the District Clerk within 30 days of rendering of the final SFWMD action.

# **GENERAL CONDITIONS**

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized shall subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S. (2012).
2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.
3. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the "State of Florida Erosion and Sediment Control Designer and Reviewer Manual" (Florida Department of Environmental Protection and Florida Department of Transportation June 2007), and the "Florida Stormwater Erosion and Sedimentation Control Inspector's Manual" (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice" indicating the expected start and completion dates. If available, an Agency website that fulfills this notification requirement may be used in lieu of the form.
5. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.
6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:
  - a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex- "Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit"[Form 62-330.310(3)]; or
  - b. For all other activities- "As-Built Certification and Request for Conversion to Operational Phase" [Form 62-330.310(1)].
  - c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.
7. If the final operation and maintenance entity is a third party:
  - a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as- built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.3 of Applicant's Handbook Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
  - b. Within 30 days of submittal of the as- built certification, the permittee shall submit "Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity" [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.
8. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that

### GENERAL CONDITIONS

require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.

9. This permit does not:
  - a. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
  - b. Convey to the permittee or create in the permittee any interest in real property;
  - c. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
  - d. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.
10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.
11. The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.
12. The permittee shall notify the Agency in writing:
  - a. Immediately if any previously submitted information is discovered to be inaccurate; and
  - b. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.
13. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.
14. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.
16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other

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#### **GENERAL CONDITIONS**

uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.

17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.
18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with Rule 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

### SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on April 1, 2020.
2. Operation and maintenance of the stormwater management system shall be the responsibility of PROPERTY OWNERS ASSOCIATION. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.
3. Discharge Facilities:
 

Basin: North Basin  
 1-3" dia. CIRCULAR ORIFICE with invert at elev. 20.85' NAVD 88.  
 406 LF of 36" dia. REINFORCED CONCRETE PIPE culvert.  
 1-3.1' W X 4.1' L drop inlet with crest at elev. 22.75' NAVD 88.  
 Receiving body : Lake 1  
 Control elev : 20.85 feet NAVD 88.

Basin: Lake Basin  
 1-8.5" W X 4" H RECTANGULAR ORIFICE weir with crest at elev. 22.92' NAVD 88.  
 1-6.5" W X 3" H RECTANGULAR ORIFICE with invert at elev. 20.85' NAVD 88.  
 Receiving body : Existing preserve through CB-OF1  
 Control elev : 20.85 feet NAVD 88.
4. Lake side slopes shall be no steeper than 4:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth, unless shown on the plans.
5. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
6. Minimum building floor elevation:  
 BASIN: North Basin - 25.00 feet NAVD 88.  
 BASIN: West Basin - 25.00 feet NAVD 88.
7. Minimum road crown elevation:  
 Basin: North Basin - 24.30 feet NAVD 88.  
 Basin: West Basin - 24.00 feet NAVD 88.
8. Minimum parking lot elevation:  
 Basin: North Basin - 24.30 feet NAVD 88.  
 Basin: West Basin - 23.50 feet NAVD 88.
9. The following are exhibits to this permit. Exhibits noted as incorporated by reference are available on the District's ePermitting website (<http://my.sfwmd.gov/ePermitting>) under this application number.  
 Exhibit No. 1.0 Location Map  
 Exhibit No. 1.1 Basin Boundary Map  
 Exhibit No. 2.0 Plans, pages 1-10  
 Exhibit No. 2.1 Storm Water Pollution Prevention Plan, pages 1-7  
 Exhibit No. 2.2 Urban Stormwater Management Program, pages 1-5  
 Exhibit No. 3.0 FLUCCS Map  
 Exhibit No. 3.1 Wetland/OSW Impact Map

### **SPECIAL CONDITIONS**

Exhibit No. 3.2 Letter of Credit Reservation  
Exhibit No. 3.3 Big Cypress Fox Squirrel Management Plan  
Exhibit No. 3.4 Work Schedule

10. The exhibits and special conditions in this permit apply only to this application. They do not supersede or delete any requirements for other applications covered in Permit No. 36-04033-P unless otherwise specified herein.
11. Prior to commencement of construction and in accordance with the work schedule in Exhibit No. 3.4, the permittee shall submit documentation that 0.15 freshwater herbaceous credits have been deducted from the official ledger for Panther Island Mitigation Bank.
12. Prior to the commencement of construction, the permittee shall conduct a pre-construction meeting with field representatives, contractors and District staff. The purpose of the meeting will be to discuss construction methods and sequencing, including type and location of turbidity and erosion controls to be implemented during construction, mobilization and staging of contractor equipment, methods of vegetation clearing, construction dewatering, coordination with other entities on adjacent construction projects, wetland/buffer protection methods, and endangered species protection with the permittee and contractors. The permittee shall contact District Environmental Resource Compliance staff from the Lower West Coast Service Center at 239-338-2929 to schedule the pre-construction meeting.
13. Prior to construction within the West and East basins, a permit modification will be required to demonstrate consistency with design assumptions. Each basin is required to provide 0.5 inches of dry pre-treatment prior to connection with the master stormwater management system.
14. Prior to the commencement of construction and pursuant to Subsection 62-330.060(3), F.A.C., the permittee shall demonstrate ownership of the project area to the District's Environmental Resource Compliance staff.
15. Endangered species, threatened species and/or species of special concern have been observed onsite and/or the project contains suitable habitat for these species. It shall be the permittee's responsibility to coordinate with the Florida Fish and Wildlife Conservation Commission and/or the U.S. Fish and Wildlife Service for appropriate guidance, recommendations and/or necessary permits to avoid impacts to listed species.
16. The permittee shall comply with the provisions of the Big Cypress fox squirrel habitat management plan approved for the project site in accordance with Exhibit No. 3.3. Prior to initiating construction activities, the site shall be surveyed for the presence of active Big Cypress fox squirrel nests. A 125 foot radius undisturbed buffer must be maintained around all active nests. Following nesting activities, the nesting tree may be removed following coordination with the Florida Fish and Wildlife Conservation Commission and obtaining all required permits.  
  
Any modifications to this program shall require prior written approval from District staff.
17. Activities associated with the implementation of the mitigation plan shall be completed in accordance with the work schedule attached as Exhibit No. 3.4. Any deviation from these time frames must be coordinated with the District's Environmental Resource Compliance staff, and may require a minor modification to this permit. Such requests must be made in writing and shall include (1) reason for the change, (2) proposed start/finish and/or completion dates; and (3) progress report on the status of the project development or mitigation effort.