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**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CALABAY PARC AT TOWER LAKE**

**This instrument was prepared by
and should be returned
to:**

**Robert J. Stanz, Esq.
ROBERT J. STANZ, P.A.
5121 S. Lakeland Dr., Suite 1
Lakeland, FL 33813
Phone: 863-709-0206
Email: rjstanz@stanzlaw.com**

**AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
CALABAY PARC AT TOWER LAKE**

THIS AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, made, executed and effective as of the 7 day of December, 2024, by CALABAY PARC AT TOWER LAKE HOMEOWNERS ASSOCIATION, INC., a Florida non-profit corporation (hereinafter referred to as the "Association").

WITNESSETH:

WHEREAS, Association is the community association for the residential community located in Polk County, Florida, and known as **Calabay Parc at Tower Lake** (hereinafter referred to as the "Property");

WHEREAS, Calabay Parc at Tower Lake is a residential community in multiple phases designed to allow and facilitate the use of the residences therein on a short-term rental basis;

WHEREAS, in order to further facilitate a vacation-intensive use, the Association shall provides services not traditionally found in single-family residential communities in order to alleviate many maintenance, repair and upkeep responsibilities for the owners, tenants and residents of the Lots, thereby assuring a consistent standard of maintenance and upkeep and thereby insuring an esthetically pleasing environment; and

WHEREAS, the Association was established to own, operate and/or maintain the Common Areas herein described and which will likewise provide the Exterior Maintenance Services as likewise defined herein.

WHEREAS, the Association is currently subject to the Declaration of Covenants, Conditions and Restrictions of Calabay Parc at Tower Lakes Homeowners Association, Inc., recorded in O.R Book 6077, Pages 1201-1251, of the public records of Polk County, Florida, as supplemented in O.R Book 7434, Pages 902-906 and as amended in O.R. Book 9165, Pages 1525-1527, O.R. Book 10693, Pages 1844-1846, O.R. Book 11026, Pages 891-894, O.R. Book 11487,

Pages 1074-1076, O.R. Book 12411, Pages 2234-2237, all within the public records of Polk County, Florida (collectively referred to as the "Existing Declaration").

WHEREAS, the Association desires to combine the Existing Declaration, all supplements and amendments into one document, and pursuant to the ARTICLE XI of the Existing Declaration, the declaration may be amended by a majority vote of the votes entitled to be cast at any meeting at which a quorum is present as provided in the By-Laws when written notice of such meeting specifies the proposed amendment and amendments to be considered at such meeting.

WHEREAS, on December 7, 2024, a majority of Members cast a sufficient number of votes in favor of adopting this AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CALABAY PARC AT TOWER LAKE, which constitutes a majority of the votes of the Association present in person or by proxy at the meeting.

NOW, THEREFORE, the Association hereby declares that the Property described herein shall be held, sold, conveyed, leased, encumbered and otherwise dealt with subject to the easements, restrictions, covenants, and conditions, reservations, charges and lien rights hereinafter set forth, all of which are for the purpose of protecting the value, desirability and attractiveness of, and which shall run with, said real property and be binding upon, and inure to the benefit of, all parties having or acquiring any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns.

ARTICLE I DEFINITIONS

Section 1.1 . Defined Terms. The following words and phrases, when used in this Declaration or any supplemental declaration hereto, shall have the following meanings:

(a) **"Architectural Review Committee"** and **"ARC"** shall refer to the committee established and described in Article VII hereof.

(b) **"Articles"** shall mean the Articles of Incorporation of the Association as they may exist from time to time, a copy of the Articles as initially filed with the Florida Department of State being attached hereto as **Exhibit A**.

(c) **"Association"** shall mean Calabay Parc at Tower Lake Homeowners Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

(d) **"Board"** shall mean the Board of Directors of the Association.

(e) **"By-Laws"** shall mean the By-Laws of the Association as they may exist from time to time, a copy of the initial By-Laws to be adopted by this Association being attached hereto as **Exhibit B**.

(f) **"Common Expenses"** shall mean expenditures for maintenance, operation and other services required or authorized to be performed by the Association with respect to the Common Area, Surface Water Management Systems or otherwise.

(g) **"Common Area"** shall mean and refer to those areas of land shown on any recorded subdivision plat of the Property intended to be devoted to the common use and enjoyment of the owners of the Property, including, without limitation, the private interior roadway system; all real property, including any improvements thereon, owned by the Association for the common use and enjoyment of the Owners; any Lot or parcel of land subsequently deeded by the Association to the Association for the use by the Owners; and, the Surface Water Management System.

(h) **"Conservation Easements"** shall mean dedications, if any, granted by the Association pursuant to the provisions of Section 170 of the Internal Revenue Code of 1986, as amended, and/or pursuant to conservation ordinances, laws, rules and regulations of applicable governmental authorities.

(i) **"Declaration"** shall mean this *Amended and Restated Declaration of Covenants, Conditions and Restrictions* as it may, from time to time, be amended or supplemented.

(j) **"Landscape Maintenance Services"** shall mean: (i) mowing, trimming, edging of lawns, including application of fertilizers, pesticides, herbicides, fungicides and other agents; (ii) pruning trimming and weeding of shrubs and flower beds installed by the Association or by or on behalf of the Owner, in accordance with landscape plans approved by the Architectural Review Committee; (iii) pruning and trimming of palm trees and any hardwood tree branches overhanging the sidewalk and road to maintain at least an eight (8) to twelve (12) foot clearance and, (iv) operation, maintenance and replacement of all irrigation system lines, pumps, meters, timers, sprinkler

heads or other apparatus, equipment or machinery with the exception of adding/upgrading currently installed irrigation.

(k) **"Institutional Lender"** shall mean the owner and holder of a mortgage encumbering a Lot when such owner and holder shall be a bank, savings bank, mortgage company, life insurance company, federal or state savings and loan association, an agency of the United States government, public or private pension fund, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a credit union, real estate or mortgage investment trust, or other lender generally recognized in the community as an institutional lender.

(l) **"Lot"** shall mean any parcel of land shown on any recorded subdivision map or plat of the Property upon which may be constructed a residential dwelling unit.

(m) **"Maintenance"** shall mean, but not be limited to, cleanup, landscaping and grounds care, upkeep of any recreational amenities, any Conservation Easement, the Surface Water Management System and other facilities within the Common Area, and repair, maintenance and upkeep of the entry features. The term "maintenance", as applied to the Surface Water Management System, shall include the exercise of practices which allow the system to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the Southwest Florida Water Management District, including (i) checking the inlets for accumulation of debris and sedimentation; (ii) checking for pond side slope stability by replacing dead sod and, after mowing operations, checking for disturbed side banks; (iii) cleaning sediment out of mitered end section (inflow to pond); and, (iv) checking rear lot berms for blockage and destabilization. Any repair or reconstruction of the Surface Water Management System shall be as permitted, or if modified, as approved, by the Southwest Florida Water Management District.

(n) **"Member"** shall mean all Owners who are Members of the Association as provided in this Declaration.

(o) **"Notice"** shall mean delivery to the person or entity who appears as Owner in the records of the Association of any document by email or mail to the last known addresses reflected in the records of the Association. Notice to one of

two or more co-owners of a Lot shall constitute notice to all Owners of such Lot. All Association communication and notice will be done as written correspondence delivered by current postal service or through electronic email transmission only. The Association may create an official social media page. If created by the Association, such social media pages shall be for Owners only, not for public participation, and such page(s) may be used as a communication instrument by the Association with communication sent first by mail or email. The Association shall not have any responsibility or affiliation in connection to the use of any unofficial social media page(s) for CALABAY PARC AT TOWER LAKE and by acceptance of a deed to a Lot and by participating on such social media page(s), each Owner acknowledges and agrees that the Association is not liable and holds harmless for any communication or information presented on such unofficial social media sites.

(p) **"Owner"** shall mean the owner as shown on the records of the Association (whether it be the Association, one or more persons, firms or legal entities) of fee simple title to any Lot located within the Property or any Additional Property. Owner shall not mean the holder of any mortgage or lien unless and until such holder has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure nor shall the term include any lessee or tenant of any Owner.

(q) **"Plan"** shall mean any recorded plat of any portion of the Property and Additional Property for the development of **Calabay Parc at Tower Lake**.

(r) **"Property"** shall mean all phases of the **Calabay Parc at Tower Lake** community, and, when added in accordance with the terms and conditions hereof, any Additional Property which may be made subject to this Declaration in the manner provided herein, as described on the attached **Exhibit C**.

(s) **"Surface Water or Stormwater Management System"** shall mean a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system as permitted pursuant to Chapters 40D-4 or

40D-40, *Florida Administrative Code*.

(t) **"Unit"** shall mean a dwelling unit which has been constructed on a Lot and for which a certificate of occupancy has been issued by the applicable governmental authority.

Section 1.2. Interpretation. Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including" shall mean "including, without limitation". This Declaration shall be liberally construed in favor of the party seeking to enforce the provisions hereof to effectuate the purpose of protecting and enhancing the value, marketability, and desirability of the Property by providing a common plan for the development and preservation thereof. The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof.

ARTICLE II EASEMENTS AND PROPERTY RIGHTS IN THE COMMON AREA

Section 2.1. Utility Easements. The Association reserves the right to grant easements to any public or private utility or governmental authority providing utility and other services within the Property and the Common Area over, under, upon and through the Property and Common Area. Any such easement granted by the Association pursuant hereto shall be given for the purpose of maintaining, installing, repairing, altering and operating sewer lines, irrigation lines, water lines, lift stations, effluent disposal lines, pipes, wires, power lines, telephone service, gas lines, cable television service, alarm systems, and like machinery, equipment and apparatus appurtenant to all of the forgoing as may be necessary or desirable for the installation and maintenance of utilities and providing services to Owners, the Property and the Common Area. All such easements shall be of such size, width and location as the Association, in its discretion, deems appropriate; provided, however, such discretion will be exercised in such a manner so as to not unreasonably interfere with the use of any improvements which are now, or may hereafter be, located upon the Property.

Section 2.2. Owners' Easement of Enjoyment. Except as to the Surface Water Management System which shall be operated and maintained by the Association as required by the Southwest Florida Water Management District, every Owner shall have a right and easement of enjoyment in and to the Common Areas, if any, which shall be appurtenant

to and shall pass with the title to every Lot.

Section 2.3. Drainage Easements. The Surface Water or Stormwater Management System shall include those portions of the Property designated as retention areas or drainage easements or similar nomenclature (collectively "Drainage Areas") by Association for irrigation, drainage or beautification purposes in a manner consistent with the original design thereof by the Association and in accordance with the requirements of applicable governmental authorities. The Drainage Areas shown on any Plat or conveyance shall be used for the construction, repair and maintenance of drainage facilities including, but not limited to, canals, pumps, pipes, inlets and outfall structures and all necessary appurtenances thereto. The location of the drainage pattern may not be modified or relocated without the prior written consent of the Association or applicable governmental authority. In the event of a dissolution or termination of the Association, the administration and maintenance of the Drainage Areas shall be transferred only to another not-for-profit corporation or dedicated to an appropriate governmental agency agreeing to accept such conveyance or dedication. The Association shall have a perpetual nonexclusive easement over all areas of the Surface Water and Stormwater Management System for access to operate, maintain or repair the System. By this easement, the Association shall have the right to enter upon any portion of any Lot which is a part of the Surface Water or Stormwater Management System, at a reasonable time and in a reasonable manner, to operate, maintain or repair the System as required by the permit issued by the Southwest Florida Water Management District. Additionally, the Association shall have a perpetual nonexclusive easement for drainage over the entire Surface Water or Stormwater Management System. No person shall alter the drainage flow of the System, including buffer areas or swales, without prior written approval of the Southwest Florida Water Management District.

Section 2.4. Easements for Landscape Maintenance. There is hereby reserved for the benefit of the Association, as successor to the Declarant, a blanket easement over the Lots for the purpose of the performance of the services described in Article VI, of this Declaration. The Association, its officers, directors, agents, employees and contractors, shall have the right to enter any Lot at any time for the performance of such services, and shall not be liable to any Owner for inconvenience or disturbance occasioned by such entry, subject only to the terms and conditions of Article VI. No agreement on the part of the Association consenting

as a waiver or amendment of this easement, nor in any way limit or restrict the rights of the Association to access the Lot for performance of services at any time or times deemed necessary by the Association.

Section 2.5. Association Easements. The Association hereby reserves to itself, its successors and assigns, and to such other persons as Association may from time to time designate in writing, a perpetual easement, privilege and right in and to, over, under, on and across the Common Area for ingress and egress; provided, however, that such access and use does not unreasonably interfere with the reasonable use and enjoyment of the Common Area and facilities located thereon by the Owners. The Association hereby further reserves to itself, its successors and assigns, and to such other persons as Association may from time to time designate in writing, a non-exclusive perpetual easement, privilege and right in and to, over, under, on and across the Property for ingress and egress to construct, locate and maintain any lines, cables, conduits, pipes and other such improvements related to the infrastructure and development thereof in connection with Association's development of the Property or any portion thereof; provided, however, that any such construction, location, installation or development by Association shall not be permitted in, on, under or across houses and pools and Association shall be obligated to restore any disturbed area (including but not limited to fences and walls) to as close to the original condition thereof as is reasonably practical. Association reserves for itself, its successors and assigns, a non-exclusive easement for the installation and maintenance of security and television cables and wires within the Common Area and any easement areas referred to herein.

Section 2.6. Service Easements. Association hereby grants to people and entities affiliated with delivery, pickup and fire protection services, police and other authorities of the law, United States mail carriers, representatives of electrical, telephone, cable television and other utilities authorized by the Association, its successors or assigns, and to such other persons as the Association from time to time may designate, a non-exclusive, perpetual easement for ingress and egress over and across the Common Area for the purposes of performing their authorized services, to service the Property and to perform any investigation related thereto.

Section 2.7. Extent of Easements. The rights and easements of enjoyment created in this Article II shall be subject to the following:

(a) The right of the Association to suspend the rights and easements of enjoyment of any Member or any tenant of any Member for any period during which any assessment remains unpaid, and for any period for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or breach of any rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the assessment.

(b) The right of the Association to give, dedicate, mortgage or sell all or any part of the Common Area (including leasehold interests therein) to any public agency, authority, or utility or private concern for such purposes and subject to such conditions as may be determined by the Association. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice-President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Area, prior to the recording in the Public Records of Polk County, Florida thereof. Such certificate shall be conclusive evidence of authorization by the Members.

(c) The right of the Association to grant use rights in and to all or any part of the Common Area to any persons or entities for such purposes, for such consideration and subject to such conditions as may be determined by the Association, in its sole and absolute discretion, including, but not limited to, use rights with respect to recreational facilities or amenities constructed or to be constructed on the Common Property.

ARTICLE III RULES AND REGULATIONS

Section 3.1. Residential Use. Residential Use. Each Lot shall be used for residential purposes only and no trade or business that requires (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Home; (b) the business activity conforms to all governmental requirements; (c) the business activity does not involve persons coming onto the residential properties who do not reside in the Property or door-to-door solicitation of residents of the Property; and (d) the business activity is consistent with the residential character of the Home and does not constitute a nuisance, or a hazardous or offensive

use, or threaten the privacy or safety of other residents of the Property, as may be

determined in the sole discretion of the Board. may be carried on therein; provided, however, the lease or rental of a Unit shall not constitute a violation of this covenant. However, any tenant will be subject to this Declaration and the rules and regulations of the Association, so long as they occupy a Unit. Short-term rental of units is permitted in **Calabay Parc at Tower Lake**. For purposes of this Section 3.1, a “short-term rental” is defined as a dwelling unit which is made available more than three (3) times a year for periods of fewer than thirty (30) days of use, occupancy or possession by the public. It is intended that Lots and Units may be leased for transient, short-term rental only. As such, leasing of Units for short-term rental shall not be subject to the approval of the Association. However, an Owner leasing his Lot and Unit for a period of seven (7) months or more shall, in advance of completing said lease, provide the Association with a written statement signed by his or her tenants acknowledging that they have received a copy of the Association’s governing documents and that they will comply with all covenants, conditions and restrictions contained therein, as well as the following: (a) total occupancy shall not exceed two (2) people per bedroom: (b) no more than two (2) pets ' per Unit are allowed at the same time: (c) no person convicted of a felony involving violence to persons or property, a felony involving the sale of a controlled substance or a felony demonstrating moral turpitude, including, without limitation, sexual offenses, may lease a Lot and Unit: (d) In the event an Owner is more than 90 days delinquent in any monetary obligation to the Association, the Association is entitled to collect any tenant’s rent until the delinquency has been paid in full to the Association and the tenant of a delinquent owner is obligated to pav their rent to the Association upon written demand. In order to insure compliance with these restrictions the Board of Directors may adopt reasonable rules and regulations regarding information that must be submitted to the Association when a Lot and Unit are leased. Failure to provide the written statement or violation of the foregoing restrictions or the Board of Director’s rules regarding leasing entitles the Association to evict the violating tenants and the Association is hereby irrevocably appointed by each Owner as their non-exclusive agent to evict the violating tenants pursuant to Chapter 83. Florida Statutes. The Association may recover any attorneys’ fees and costs incurred to enforce this Section or evict a tenant and may levy an Individual Assessment against the Owner. Lot and Unit and collect it in the same manner as provided in this Declaration.

Section 3.2. Antennas. No television antennas may be erected and maintained on a Lot if cable television is available to serve the Property; however, satellite dishes no larger than one (1) meter in diameter which are affixed to the side or rear of a Unit shall be permitted if allowed by FCC regulations, subject to ARC approval of the location of same. No radio or television signals nor any other form of electromagnetic radiation shall be permitted to originate from any Lot which interfered with the reception of television or radio received upon any other lot.

Section 3.3. Prohibition of Damage and Certain Activities. Nothing shall be done or kept on any Lot or in the Common Area which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Area shall be committed by any Owner or any Tenant or invitee of any Owner; and each Owner shall indemnify and hold the Association and other Owners harmless against all loss resulting from any such damage or waste caused by him or his Tenants or invitees, to the Association or other Owners. No noxious, destructive or offensive activity shall be permitted on any Lot or in the Common Area, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any other person at any time lawfully residing on the Property.

Section 3.4. Signs Prohibited. No sign on any kind shall be displayed to the public view on any Lot or the Common Area without the prior written consent of the Association, except customary name and address signs and no more than one (1) yard sign of not more than four and one-half (4 ½) square feet in size (or such lesser amount as may be required by applicable governmental regulations) advertising the property for sale or rent, provided the same are otherwise in accordance with rules and regulations adopted by the Association.

Section 3.5. Parking. No truck or van, boat, trailer, recreational vehicle, or other types of non-passenger vehicles, equipment, implements or accessories shall be parked, stored or otherwise kept on any portion of the Property unless the same are fully enclosed within the garage. The maximum amount of vehicles allowed per household is six (6). No commercial vehicles may be kept on any Lot and/or within Common areas, with a few exceptions such as; any law enforcement, government, or emergency vehicles (less than one (1) ton); Per Florida State Statute (S.B. 476), law enforcement

officers are automatically excepted from any and all HOA commercial vehicle prohibitions; any personally owned vehicle used for independent business purposes that have either removable signage or no more than one-third (1/3) of the vehicle wrapped or painted (includes Lyft, Uber, real estate or insurance agents, medical providers, mobile notaries, cosmetic or direct sales consultants, food or floral delivery); and any commercial vehicle dispatched for emergency response for specific periods of time (such as utility workers, roofers, construction and renovation services, insurance companies, military, government agencies, non-profit charities, and other agencies or organizations temporarily assisting with disaster recovery or emergency response services. Homeowners with commercial vehicles are required to either store their vehicle in their garage, remove their signage (such as magnetic signs), or cover their vehicles with professional car covers when not in use and vehicles must be drivable, well-maintained, and clean with no fluid leakages, damage, faded paint, or other unsightly condition. The term "commercial vehicle" shall include, without limitation, any truck or vehicle with payload capacity in excess of one (1) ton that may or may not have advertising signage; any vehicle used for the purpose of transporting persons for hire (such as busses, vans, taxis, etc; any vehicle designated, used or maintained primarily for the transportation of property (such as package delivery, moving vans, moving pods or storage containers, courier services, etc.); any vehicle used for pulling or towing (trailers, tow trucks, etc.); any vehicle used for construction; any vehicle used for providing services to another person or entity for a fee or profit; any vehicle that is fully wrapped or painted, advertising a business, service, or product; any company-owned vehicle issued by a company for use by an employee; any truck with a modified bed for the purpose of any type of work activity and not for personal household use. any vehicle with visible work equipment located on the outside of the vehicle, such as ladders, pipes, tools, commercial equipment, etc. Vehicles regulated by this Section which are in the process of loading or unloading shall not be considered to be "parked" so long as such vehicles shall not be kept on the Property overnight. Storage pods, moving trailers or moving vans (up to 26 feet), may be permitted for no more than three (3) days, with written permission from the Board or Community Manager. Moving vans that are too large to fit in the driveway, without blocking the sidewalk or street, will need to be parked on the street in an approved area that does not hinder traffic flow,

block street signs, or impairs the safety of the community, which may result in parking down the street when not in use. The proper use of the driveway and garage is to accommodate resident's vehicles. The streets are only be used for parking when the garage and driveway are full with vehicles and not sufficient to accommodate additional vehicles. Street parking will be limited to one side of the street, which will be the side without mailboxes to prevent impediment to mail delivery. Legitimate situations can be for temporary cases such as, but not limited to: when services are being provided by contractors; when cleaning the driveway; or when children are at play on the driveway. The Association will enforce all local governmental laws, as described but limited to; parking in the driveway so that any portion of the vehicle is extended onto the street and/or to block sidewalk, parking facing in such a direction that is against the flow of traffic. As per the governing documents of the community, the streets are privately owned by the Association and will be governed accordingly. Per Florida Statutes 715.07, towing will be enforced within the Association for improper parking as described above as proper signs are posted at the entrance of the community in accordance with Florida Statues. Further, the Association may promulgate further rules and regulations affecting the parking of any vehicles on the Lot which appear in the best interests of all Owners.

Section 3.6. Animals. No exotic animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot or the Common Area, except that dogs, cats, and other common household domesticated animals may be kept on Lots subject to the limitation that no more than a total of two (2) domestic cats or dogs may be maintained per Lot and further subject to rules and regulations adopted by the Association, provided that they are not kept, bred, or maintained for any commercial purpose. Each Owner shall be responsible at all times for the prompt collection and proper removal and disposal of all excrement from their pets including the Owner's individual Lot. The Association may prohibit the keeping of any pet anywhere upon the Property which the Association reasonably determines may constitute a threat to the safety or health of persons lawfully upon the Property and all animals outside the home or enclosed area must be kept on a leash at all time. All Owners at all times shall comply with all rules, regulations, ordinances, statutes, and laws adopted, promulgated, or enforced by any public agency having jurisdiction of the Property and relating to animals, and shall at no times allow such animals to constitute a nuisance within

any portion of the Property.

Section 3.7. Trash and Garbage. No trash, garbage, or other waste material shall be kept or permitted upon any Lot or the Common Area except inside the improvements on each Lot or in containers (equipped with lids) concealed from view and otherwise in accordance with rules and regulations adopted by the Association. All trash receptacles must be kept in the garage, or adjacent to the side of the residence but hidden behind a fence or wall enclosed on two sides (front and side) and may be placed at the curb for collection only (i) after dusk on the evening before, or (ii) on the morning of, the day upon which trash is to be collected. All costs associated with trash collection shall be borne by the Owners.

Section 3.8. Municipal Service Taxing Units. The City of Haines City may require or permit the Association to form one or more municipal service taxing units for maintenance and operation of street lights to be installed on the Properties or maintenance of stormwater drainage and retention systems on the Properties. All Lots shall be encompassed within any such taxing unit which may be established and shall be subject to the restrictions, limitations and assessments as may be imposed upon the property within any such taxing unit. All Owners shall be bound by any agreement or resolution creating a taxing unit and all Owners shall join in and execute any instrument which may be required in connection with the establishment of such taxing unit.

Section 3.9 Swimming Pools. Any swimming pool (including the location, lighting, screening or fencing) to be constructed on any Lot shall be subject to the approval of and the requirements of the ARC, which shall include, but which shall not be limited to, the following:

- (a) above-ground swimming pools shall not be allowed;
- (b) materials, design and construction shall meet standards generally accepted by the industry and shall comply with applicable governmental regulations; and
- (c) no high-intensity exterior lighting shall be allowed.

Section 3.10. Air Conditioning Equipment. Air Conditioning Equipment. Heating and cooling of Units with systems of active or passive solar, wind and other forms of energy other than gas or electric may be approved by the ARC. Components of such systems that are affixed to the exterior of a residence shall not be permitted unless the design thereof

shall have first been approved by the ARC. Exterior components of any cooling or heating system (or a combination thereof) shall be substantially screened from view from the street fronting the residence. Window air conditioning units are not allowed at any time.

Section 3.11. Maintenance of Lots. No Lot shall be used or maintained as a dumping ground for rubbish, trash, or other waste. All trash, garbage, and other waste shall be kept in sanitary containers except during pickup, if required to be placed on the curb. All containers shall be kept within an enclosure or underground receptacle which the ARC shall require to be constructed with each home, which enclosures shall be located out of sight from the front or side streets. There shall be no burning of trash or any other waste material, except within the confines of an incinerator, the design and location of which shall be approved by the ARC.

Section 3.12. Mailboxes. All mailboxes shall meet the requirements of the United States Postal Service for multiple mailboxes and shall otherwise conform with the other applicable criteria of the as to type of mailboxes allowed within the Design Criteria of the Association and the specific distance needed in the recovery area of the street system. No mailbox shall be permitted within any dedicated public right of way.

Section 3.13. Inoperative Vehicles and Repair. No inoperative cars, trucks, trailers or other types of vehicles shall be allowed to remain on the Property for a period in excess of two (2) days unless within a fully enclosed garage. There shall be no major maintenance, repair or restoration performed on any motor vehicle on or adjacent to any Lot in the Property; provided, however, such maintenance, repair or restoration may be done if solely within an enclosed garage. All vehicles shall have current license plates. Moreover, no stripped, unsightly, offensive, wrecked, junked, or dismantled vehicles or portions thereof, shall be parked, stored or located upon any Lot at any time unless within a fully enclosed garage. Any vehicle, even covered with a car cover, which has not moved for over 30 days will be considered inoperable and must be stored inside an enclosed garage only. No driveway or exterior parking area shall remain soiled or discolored with excessive or unusual oil or petroleum product stains for more than seven (7) days after such staining may occur.

Section 3.14. Garage Doors. Each residence shall be equipped with garage doors which shall remain in their original form at time of sale. Any changes to current condition of

garage will need to be approved by the ARC.

Section 3.15. Outbuildings. No outbuildings, including but not limited to; sheds, tents, gazebos, pergolas, shack, may be installed on the property at any time.

Section 3. 16. Screened Enclosures. In addition to the requirements noted herein, enclosures that are appurtenant to the primary residential structure will be allowed subject to the following conditions:

(a) Any roof structure must have a minimum pitch of at least 3 to 12 and shall be finished with shingles similar or comparable to those on the primary residential structure. Aluminum roofing may be allowed if constructed by a licensed aluminum or screen enclosure contractor and if properly permitted by the applicable governmental agency. The aluminum roof and all associated support and decorative components must be colored so as to be compatible with the color of the primary residence to which it is appurtenant, as determined by the ARC.

(b) Any screen panels will require finishing in anodized bronze or other finish approved by the ARC and all screen fabric shall be tinted.

(c) Any opaque/privacy screening can be installed only on the lower portion of the enclosure as high as the first linear cage bar which is approximately three (3) feet high.

Section 3. 17. Maintenance of Lakefront Lots. Owners may remove invasive vegetation and other organic material within the wetlands and/or upland buffers adjacent to Tower Lake that is within the Lot in an area not to exceed 50 feet in width or 50 percent of their lake frontage, whichever is less with written approval from Southwest Florida Water Management District, U.S. Army Corps of Engineers and the ARC. No Owner may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, buffer areas, and drainage easements described in the approved permit and recorded plat of the Property unless prior written approval is received from the Southwest Florida Water Management District, Bartow Service Office, U.S. Army Corps of Engineers and the ARC. This restriction includes, but is not limited to the construction of seawalls, upland retaining walls, and the placement of rip rap or other shoreline reinforcements.

Section 3.18. Owners' Maintenance Obligations. Each Owner shall be

exclusively responsible for performance of all maintenance obligations for their Unit that are not specifically assumed by the Association pursuant to this Declaration, including, without limitation, repair and replacement of all interior and exterior elements of the Unit, all garage doors, entry/exit doors, window screens, glass surfaces and windows, all swimming pools, pool equipment and machinery, swimming pool screen enclosures, swimming pool decks, patios, mulch, trimming of hardwood trees, removal/replacement of dead landscaping and lawns, changes and upgrades to current irrigation system, sidewalks (pressure wash/clean only) walkways, and driveways, outbuildings or other improvements.

Section 3.19. Security Gate. Security gate policy for crime prevention and other lawful reasons for the health, benefit and welfare of the members of the Association must be followed: (a) Any and all vehicles entering the community without a resident decal or hang tag is required to present a valid drivers license and the address to where they are heading. The name, address, vehicle description and tag number are logged with date and time of arrival. If the vehicle cannot present a valid drivers license, they are denied access to the community. The only exception to this is if the driver's license has an address for one of the homes in the community, even with a non-valid license these vehicles will be allowed entry. (b) Guests visiting the property as short-term rental guests, are given a hang tag for the length of their visit after initial check in to expedite their access after their first check in. Hang tag is only valid for dates of their stay and dates are noted on hang tag along with property address. (c) Owners or Full-time Residents have the options of (1) submitting an application for a vehicle decal to be placed on their vehicle which will then not require to check in with security; or (2) purchasing a gate remote which will give them community access through the resident only gate.

Section 3.20. Rules and Regulations. No Owner shall violate the rules and regulations for the use of the Lots and the Common Area, as the same are from time to time adopted by the Association. The prohibitions and restrictions contained in this Article shall be self-executing without implementation by further rules and regulations; provided, however, the foregoing shall not be construed as an implied prohibition preventing the Association from extending the scope of such prohibitions and restrictions from time to time by adopting further rules and regulations not inconsistent with this

Declaration. The rules and regulations which may be adopted by the Association may specifically provide for fines to be imposed for violation of the rules, said fines to be enforceable in the same manner as hereinafter provided in Section 5.10 relating to the nonpayment of assessments.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 4.2. Voting Rights. All Owners shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Section 4.3 Annual Meetings. The Annual Meeting of the Member shall be held on the first Saturday of December between 11:00 o'clock A.M. and 2:00 o'clock P.M. of each year, or as soon thereafter as reasonably possible.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments. The Association hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual, special and other assessments to be established and collected as hereinafter provided. Such assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. A Lot owner is jointly and severally liable with the previous Lot owner for all unpaid assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the present Lot owner may have to recover any amounts paid by the present owner from the previous owner. For the purposes of this paragraph, the term "previous owner" shall not include an association that acquires title to a delinquent property through foreclosure or by deed in lieu of foreclosure.

The present Lot owner's liability for unpaid assessments is limited to any unpaid assessments that accrued before the association acquired title to the delinquent property through foreclosure or by deed in lieu of foreclosure.

Section 5.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners of the Lots, their guests, lessees and business invitees; for the improvement, repair, replacement and maintenance of the Common Area and the improvements located thereon; for payment of all taxes assessed to the Association, if any, in respect to the Common Area, or the improvements or personal property thereon, or both; and, for the general purpose of enabling the Association to perform and fulfill its authorized or required rights, powers, duties and obligations, including, without limitation, the obligation of the Association with respect to landscape maintenance as provided in Article VI.

Section 5.3. Annual Assessments. The Association shall have the power to levy annual assessments against the Lots and the Owners thereof in the manner and for the purposes provided herein. The Association shall have the further right to require the payment of annual assessments in monthly, quarterly or semi-annual installments as the Association may deem necessary and appropriate.

Section 5.4. Individual Assessments. The Association may impose an individual assessment upon any Owner whose use or treatment of the Common Area, any Lot or the improvements on any Lot is not in conformity with the standards adopted by the Association or which increases the maintenance cost to the Association above that which would result from compliance by the Owner with such use restrictions imposed by this Declaration. The maximum amount of such assessment shall be equal to such cost incurred plus ten percent (10%) to cover the cost of administration and may be enforced in the manner provided for other assessments.

Section 5.5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto.

Section 5.6. Uniform Rate of Assessment. Both annual and special assessments

shall be fixed at a uniform rate for all Lots; provided, however, Lots owned by the Association shall not be subject to annual or special assessments for so long as Association shall obligate itself to pay any operating deficit incurred by the Association during such time as Lots owned by the Association are not subject to assessment. Notwithstanding the foregoing, any Lots from which the Association derives any rental income shall be assessed at the same rate as is herein above established for Lots owned by other Members of the Association, prorated as of, and commencing with, the first day of the month following the execution of the rental agreement.

Section 5.7. Initial Assessment. In addition to the annual, special and individual assessments provided for hereunder, the Association shall have the right to collect a one-time initiation assessment or capital contribution fee in an amount equal to the then applicable annual assessment rate. The initiation assessment/capital contribution shall be due and payable at the time of the conveyance of the Lot and Improvements, i.e. Residence; to the new purchaser, provided, however, if the initial seller is a Builder, as that term is hereinafter defined, the Builder shall have the express right to obtain reimbursement of such initiation assessment from the initial third-party purchaser of a Lot which has been improved by the construction of a single family residence thereon. This right shall be self-operative and need not be expressly set forth in any purchase agreement. As used herein, the term "Builder" shall mean the Association or any party who has contracted to purchase Lots in Calabay Parc at Tower Lake for the purpose of constructing homes for third-party purchasers. At the time of payment of the initiation assessment/capital contribution provided herein, the Owner shall likewise pay to the Association that portion of the Annual Assessment provided in Section 5.3 prorated from the date of purchase through the end of the then current calendar year.

Section 5.8. Date of Commencement of Assessments; Due Dates. The annual assessments provided for herein shall commence as to all lots on such date as shall be determined by the Board in conformity with the provisions of this Declaration. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates of periodic installments shall be established by the Board. The Association shall, upon request, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the

Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 5.9. Determination of Allocation of Assessments. The number of Lots used for the calculation of the annual assessments shall be determined as of the ownership of record thirty (30) days prior to the commencement of the fiscal year of the Association and when so determined shall be controlling for the entire fiscal year.

Section 5.10 Effect of Nonpayment of Assessments. Remedies of the Association. If any assessment is not paid on the date due as determined in the manner provided in this Article V, then such assessment shall become delinquent and shall, together with accrued and accruing interest and costs of collection as herein provided, become due and payable and be a continuing lien on such Lot which shall bind such Lot and the then Owner. The Association may record a notice of lien for delinquent assessments in the Public Records of Polk County, Florida, and foreclose the lien in the same manner as a mortgage. Upon recording, the lien shall secure the amount of delinquency stated therein and all unpaid assessments, interest and costs of collection accruing thereafter until satisfied of record. If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the highest rate allowed under the State of Florida, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot, there being added to the amount of such assessment interest at the aforesaid rate and all costs of collection, including reasonable attorneys' fees incurred in connection therewith at trial and all appellate levels.

Section 5.11 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage held by an Institutional Lender encumbering a Lot; provided, however, such subordination shall apply only to the assessments with respect to such Lot to the extent they have become due and payable prior to a sale or transfer of such Lot pursuant to a foreclosure judgment or in any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such Lot from the liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. An Institutional Lender shall, upon request, be entitled to written notification from the Association of any default of an Owner of any obligation hereunder which is not cured within sixty (60) days. Furthermore, the Association may provide such

notice without receiving a request from an Institutional Lender.

Section 5.12 Reserves. The Association shall include within the annual budget and assessment amount (but not be limited by the matters for which reserves may be collected as otherwise herein provided sums to be collected as reserves for replacement, repair and/or maintenance of the Surface Water and Stormwater Management System and other improvements situate upon or within the Common Area, including, without limitation, the private interior roadway system. Such reserve amounts will be based on a schedule approved and prepared by the Board on an annual basis and shall be based on the cost of the improvements and their estimated life. This section shall not abrogate, modify, amend or supersede the provisions of any other section of this Article.

ARTICLE VI LANDSCAPE MAINTENANCE SERVICES

Section 6.1. Common Maintenance. **Calabay Parc at Tower Lake** has been established as a community in which the Association provides certain Landscape Maintenance Services for the residents as part of its normal function in order to create a lifestyle for the Owners providing freedom from the burden of such maintenance responsibilities and to facilitate the use of the dwelling units as vacation residences. The expense of such maintenance services is included in the Common Expenses of the Association. Responsibilities of the Association are; (i) mowing, trimming, edging of lawns, including application of fertilizers, pesticides, herbicides, fungicides and other agents; (ii) pruning trimming and weeding of shrubs and flower beds installed by the Association or by or on behalf of the Owner, in accordance with landscape plans approved by the Architectural Review Committee; (iii) pruning and trimming of palm trees and any hardwood tree branches overhanging the sidewalk and road to maintain at least an eight (8) to twelve (12) foot clearance and, (iv) operation, maintenance and replacement of all irrigation system lines, pumps, meters, timers, sprinkler heads or other apparatus, equipment or machinery with the exception of adding/upgrading currently installed irrigation.

Section 6.2. Owners' Obligations. Each Owner shall be exclusively responsible for performance of all landscape maintenance obligations for their Lot that are not specifically assumed by the Association pursuant to this Declaration, including, without limitation,

mulching of all mulch beds on Lot, trimming of hardwood trees on Lot, removal/replacement of dead landscaping and lawns, changes and upgrades to current irrigation system, removal of any trees or landscaping the is damaging neighboring or HOA common property.

Section 6.3. Liability for Actions. Each Owner shall be liable for the expense incurred by the Association for any maintenance, repair or replacement of any real or personal property made necessary by the act, neglect or carelessness of the Owner or Owner's tenants or any member of their families, or their guests, employees or agents (normal wear and tear excepted) but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Each Owner shall also be liable for any personal injuries caused by his negligent acts or those of his tenants or any member of their families or their guests, employees or agents. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

Section 6.4. Scheduling and Control. The Association shall have the exclusive right to control the timing of performance of the services describe herein, including the hours of the day and days of the week on which such services will be performed, as well as the schedule of irrigation and application of fertilizers, pesticides, herbicides, fungicides and other agents. No Owner shall interfere with the performance of the services by the Association or its contractors, agents or employees, or alter the schedule of irrigation established by the Association.

Section 6.5. Indemnification. The Association covenants and agrees that it will indemnify and save harmless Association and its officers and directors from and against any and all claims, suits, actions, damages, and/or causes of action arising from any personal injury, loss of life, and/or damage to property sustained in or about any Unit or elsewhere within the Property, and from and against all costs, legal fees, expenses and liabilities incurred in and about any such claim, the investigation thereof or the defense of any action or proceeding brought thereon, and from and against any orders, judgments and/or decrees which may be entered therein. Included in the foregoing provisions of indemnification are any expenses that Association may incur in bringing suit for the purpose of compelling the specific enforcement of the provisions, conditions and covenants continued in this Declaration to be kept and performed by the Association.

Section 6.6. Exculpation of Association. The Association shall have no obligation whatsoever for the performance of any service described in this Declaration, or for the failure or refusal of the Association to perform such services.

ARTICLE VII
ARCHITECTURAL CONTROL

Section 7.1. Establishment of Architectural Review Committee.

There is hereby established an Architectural Review Committee (the ARC) which shall consist of at least three (3) or more persons designated and appointed by The Board of Directors if not consisting of the Board of Directors themselves. The Association has all rights, powers duties and obligations of the ARC, whereupon the Board shall appoint the members of the ARC and shall provide for the terms of the members of the ARC.

Section 7.2. ARC Authority. The ARC shall have full authority to regulate the use and appearance of the Property and all improvements constructed thereon to assure harmony of external design and location in relation to surrounding improvements and topography and to protect and preserve the value and desirability of the Property as a residential community. The power to regulate shall include the power to prohibit those exterior uses or activities deemed inconsistent with the provisions of this Declaration, or contrary to the best interests or the Association in maintaining the value and desirability of the Property as a residential community, or both. The ARC shall have authority to adopt, promulgate, rescind, amend and revise rules and regulations in connection with the foregoing; provided, however, such rules and regulations shall be consistent with the provisions of this Declaration and, in the event the Board has not constituted itself as the ARC, such rules and regulations shall be approved by the Board prior to the same taking effect. Violations of the rules and regulations of the ARC shall be enforced by the Board, unless such enforcement authority is delegated to the ARC by resolution of the Board.

Section 7.3. ARC Approval. No building, fence, hedge, wall, walk, dock, pool, planting, sign, or enclosure or addition to any improvement located upon a Lot shall be constructed, erected, removed, planted or maintained nor shall any addition to, or any change or alteration thereof, be made until the plans and specifications showing the nature, kind, shape, height, materials, color scheme and location of same shall have been

submitted to, and approved in writing by, the ARC. Any change in the exterior appearance of any improvement, including, without limitation, repainting in the same or different color, exterior refinishing, re-roofing, or the addition of architectural details, decorative sculptures or wrought iron grills, construction of fences or other enclosures, shall likewise require written approval of the ARC before any such work is commenced. The ARC shall have the right to refuse approval of plans, specifications or locations upon any grounds, including purely aesthetical considerations, which the ARC, in its sole and absolute discretion, deems appropriate.

Section 7.4. **Submissions of Plans and Specifications.** As part of the application process to the ARC, one (1) complete set of plans and specifications prepared by an architect or other person found to be qualified by the ARC and one (1) site plans shall be submitted for approval by written application on such form as may be provided, required or approved by the ARC. In addition, the anticipated commencement date and estimated time for completion shall be included in the application to the ARC. In the event the information submitted to the ARC is, in its opinion, incomplete or insufficient in any manner, it may request and require the submission of additional or supplemental information and if requested information is not received, the application will be considered automatically denied.

Section 7.5. **Standards.** No approval shall be given by the ARC pursuant to the provisions of this Article unless the ARC determines that such approval shall (i) assure harmony of external design, materials, and location in relation to surrounding improvements and topography within the Property; (ii) shall protect and conserve the value and desirability of the Property as a residential community; (iii) shall be consistent with the provisions of this Declaration; and, (iv) shall be in the best interests of the Association in maintaining the value and desirability of the Property as a residential community. The ARC may deny any application upon the ground that the proposed alteration will create an undue burden of maintenance upon the Association. In the event additional maintenance may be required, then the ARC shall require an agreed method of payment for such maintenance cost and require security for the payment of same. The ARC may condition the approval of any application upon the Owner providing reasonable security that the contemplated work will be completed substantially in accordance with the plans and specifications therefore submitted to the ARC.

Section 7.6. Drainage. All plans submitted to the ARC shall contain a drainage plan which shall be consistent with the master drainage plan for the Property or, in the alternative, contain an affirmative statement that none of the work contemplated by the plans will have any effect on the drainage of the Lot. In all events, each Owner shall be and remain fully liable for any and all damage caused directly or indirectly by any change in the design or function of drainage on or from any Lot, or the grade of any Lot, in connection with the construction, installation or maintenance of any approved changes by the Owner. In the event of any change to the drainage design, function or grade, the Association may, but shall not be required to, restore the drainage design, function or grade and may charge the Owner for all reasonable costs incurred in connection therewith plus ten percent (10%), said charge to constitute a lien on the Property of such Owner. In connection with any such restoration, the Association may exercise powers granted to it under Section 5.4.

Section 7.7. Tree Planting. All plans submitted to the ARC for approval of initial construction of improvements on a Lot shall include, in addition to the regular landscape plans, a plan for compliance with any arbor requirements of the City of Haines City, Florida as may be in effect from time to time. The additional trees shall be planted and maintained in accordance with sound industry practices, including watering, and shall be replaced with equivalent stock if such trees expire within six (6) months from the date of planting. If the Owner fails or refuses to install or replace any such additional trees, the Association, upon thirty (30) days written notice and under general authority granted to it under Section 5.4 of Article V, shall have the right to replace such trees at the cost of the Owner of the Lot and shall be further entitled to charge such Owner an additional fee of \$ 500.00 to cover the administrative expense of such replacement.

Section 7.8. Completion. All improvements for which approval of the ARC is required and has been obtained pursuant to the terms and provisions of this Declaration shall be completed within the time period specified in such approval. In the event the improvements are not completed within the required time, the Association may, thirty (30) days following written notice from the ARC to the Owner, complete such improvements at the sole expense of the Owner in accordance with the plans and specifications previously approved by the ARC and may charge the Owner for the expenses incurred in connection therewith plus ten percent (10%), said charge to constitute a lien on the Property of the

Owner. In connection with any such construction, the Association may also exercise powers granted to it of Section 5.4.

Section 7.9. Right of Entry. There is specifically reserved to the Association and the ARC, the right of entry and inspection upon any Lot for the purpose of determining and/or correcting the existence of any activity or condition which violates the terms of any approval given by the ARC or the terms of this Declaration. The ARC is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to enforce the terms of this Declaration, or to remove any improvements which have not been approved by the ARC or have not been constructed in conformity with approval granted by the ARC, the prevailing party shall be entitled to recover all costs, expenses and reasonable attorneys' fees in connection therewith. The Association shall indemnify and hold the ARC and its members harmless from any and all costs, expenses and liabilities, including reasonable attorneys' fees, incurred by virtue of service as a member of the ARC.

Section 7.10. Violations. In each instance where improvements have been constructed, or the construction thereof is substantially advanced, in such manner that the same violates the restrictions contained in this Declaration, including, activities carried out which are not consistent with plans and specifications approved by the ARC, the ARC (if it has knowledge of such violation) shall notify the Board in writing and the Board may thereafter direct the violating Owner to immediately remove any/or cure such violation. For purposes hereof, all Owners specifically consent and agree to comply with the provisions of this Section as of the time such Owner shall become vested with title to any portion of the Property.

Section 7.11. Waivers. The ARC shall have the right, but not the obligation, to grant waivers for minor deviations and infractions of the covenants, conditions and restrictions contained herein. The granting of any waiver may be given or withheld in the sole discretion of the ARC and any prior grant of a similar waiver shall not impose upon the ARC the duty to grant new or additional waivers for like or similar conditions.

Section 7.12. Disclaimer of Liability. The Association, the Association, the ARC and all officers, employees, directors or members thereof shall in no way be liable to any person or persons submitting plans and specifications for approval by reason of mistake

in judgment, negligence or non-feasance arising out of, or in connection with, the approval, disapproval or failure to approve any such plans and specifications. Each person who submits plans and specifications for approval agrees, by submission thereof, that it will not bring any action or suit whatsoever against the Association, the Association, the ARC, or any officer, employee, director or member thereof.

Section 7.13: Builder Approval for Lots: The ARC, with approval from the Board of Directors, has authority to designate approved builders for all remaining Lots within the community and those approved builders will have sole approval to begin construction within the remaining Lots with an approved Application of the buildings to be developed on said lots. The ARC will confirm approval of said applications with the Board of directors if the ARC does not consist of the Board of Directors.

ARTICLE VIII ANNEXATION OF ADDITIONAL PROPERTY

Section 8.1 Annexation of Additional Property. Additional Property may not be annexed in whole or in part by the Association and made subject to the governing provisions of this Declaration without consent of Class A Members of the Association. The approval of annexation of additional property must be approved by both a majority vote of the Board of Directors as well as a majority vote held at a special meeting of the members.

Section 8.2 Capital Improvement Fee. Effectively, immediately, all new Lots annexed in shall be subject to a Capital Improvement Fee. The fee shall be paid upon the transfer of title (deeds, mortgage foreclosures, deed-in-lieu of foreclosure and short-sales) of any new Lot. The Capital Improvement Fee for a new Lot shall be **\$5,000.00** payable to the Association. This fee is not limited to Phase IV or subsequent phases and shall apply to any vacant Lot in Calabay Parc. The Association, designated community association manager, or closing agent shall collect the applicable Capital Improvement Fee by sending notice to the Lot Owner. The Capital Improvement Fee shall have the effect of an individual assessment which becomes due and payable as of the date of the recording of the deed, certificate of title or other transfer instrument, in the public records. The Board of Directors of the Association has the authority to raise the Capital Improvement Fee at a duly-noticed Board of Directors' meeting.

Section 8.3 Compliance Notice. Closing Agents shall collect the Capital Improvement Fee during the conduct of any real estate closing involving a new Lot in the Calabay Parc

community. Lot Owners, Realtors, Lenders and Closing Agents shall comply with Chapter 720.401 and disclose the Capital Improvement Fees to all potential purchasers or buyers.

**ARTICLE IX
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

Section 9.1. Maintenance. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management, control, operation and maintenance of the Surface Water or Stormwater Management System, the private interior roadway system and other parts and parcels of the Common Area and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, substantial, attractive, and sanitary condition, order, and repair. Maintenance of the Surface Water or Stormwater Management System shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the Southwest Florida Water Management District.

Section 9.2. Right of Entry. The Association, through its employees, contractors and agents, is hereby granted a right of entry into and upon each Lot to the extent reasonably necessary to discharge the Association's performance of any duty imposed, or exercise of any right granted, by this Declaration, including, the discharge of any duty of maintenance or replacement, or both, imposed upon any Owner.

Such right to entry shall be exercised in a peaceful and reasonable manner at reasonable times and upon reasonable notice whenever the circumstances permit. Entry into any improvement upon any Lot shall not be made without the consent of the Owner or occupant thereof except when such entry is reasonably necessary for the immediate preservation or protection of the health or safety of any person lawfully upon the Property or of any such person's property. An Owner shall not arbitrarily withhold consent to such entry for the purpose of discharging any duty or exercising any right granted by the foregoing Sections of this Article, provided such entry is upon reasonable notice, at a reasonable time, and in a peaceful and reasonable manner.

Section 9.3. Services of Association. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems appropriate and advisable, together with such other personnel as the Association shall

determine to be necessary or desirable for the proper operation of the Property, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom it may contract. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property or the enforcement of this Declaration.

Section 9.4. Services for Owners. The Association may contract, or otherwise arrange, with any person or entity to furnish water, trash collection, sewer services, maintenance, replacement, and other common services to all Lots. Any Owner additionally may voluntarily contract with the Association for the Association to perform, or cause performance of, any services benefitting such Owner's Lot at the cost and expense of such Owner. All sums due the Association pursuant to such contact shall be added to and become a part of the assessment against such Owner's Lot. Notwithstanding the foregoing, the Association may not contract with any Owner to provide any service at such Owner's expense which it is the duty of the Association to provide at its own expense under any provision of this Declaration.

Section 9.5. Personal Property for Common Use. The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise.

Section 9.6. Rules and Regulations. The Association may from time to time adopt, alter, amend, and rescind rules and regulations further governing the use of the Lots and of the Common Area, which rules and regulations shall be consistent with the rights and duties established by this Declaration.

Section 9.7. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, the Articles, or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege granted herein or reasonably necessary to effectuate the exercise of any right or privilege granted herein.

Section 9.8. Restriction on Capital Improvements. Except for replacement or repair of those items installed by the Association, and except for personal property related to the maintenance of the Common Area, the Association may not authorize capital improvements

to the Common Area without consent of the Association so long as the Association is the owner of a Lot which has been platted or approved for platting pursuant to the applicable ordinances and regulations of the City of Haines City. At all times hereafter, all capital improvements to the Common Area, except for replacement or repair of those items installed by the Association and except for personal property related to the maintenance of the Common Area, shall require approval of the Board.

ARTICLE X RECONSTRUCTION OR REPAIR AFTER CASUALTY

Section 10.1 Damage to Common Area. In the event that any portion of the Common Area is damaged or destroyed by casualty, it shall be repaired or restored by the Association to substantially its condition prior to the damage or destruction. Repair or reconstruction of the Common Area shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed. All insurance proceeds shall be applied to the restoration and repair. If the insurance proceeds are insufficient, the deficit shall be assessed against all Owners as a special assessment. If there is a surplus of insurance proceeds, it shall become the property of the Association.

Section 10.2 Damage to the Lots. In the event of damage or destruction to any portion of the improvements on a Lot, the improvements shall be repaired or restored in accordance with the provisions of the applicable insurance requirements. In the event the Owner is unable to rebuild the improvements on the Lot, such Owner shall clear the debris and have the Lot leveled and restored within sixty (60) days from the date of destruction or damages.

ARTICLE XI GENERAL PROVISIONS

Section 11.1 Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by, or pursuant to, the provisions of this Declaration; and the party enforcing the same shall have the right to recover all costs and expenses incurred, including reasonable attorneys' fees. In the event any such party enforces the provisions hereof against any Owner, the costs and expenses of such enforcement, including reasonable attorneys' fees, may be assessed against such Owner's Lot as a special assessment pursuant to the provisions hereof. Failure by any such party to enforce any covenant

or restriction herein contained shall in no event be deemed a waiver of the right to do so at any time. If these restrictions are enforced by appropriate proceedings by any such Owner or Owners, such Owner or Owners may be reimbursed by the Association for all or any part of the costs and expenses incurred, including reasonable attorneys' fees, in the discretion of the Board. In addition to the foregoing, the Southwest Florida Water Management District shall have the right to enforce, by proceedings at law or in equity, the provisions contained in the Declaration as they may relate to the maintenance, operation and repair of the Surface Water or Stormwater Management System.

Section 11.2 Assignment of Rights and Duties. Any and all of the rights, powers and reservations of the Association maybe assigned to any person, corporation of association which will assume the duties of the Association pertaining to the particular rights, powers and reservations assigned. Upon such assignee evidencing its consent in writing to accept such consent and assume such duties, it shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are herein given to and assumed by the Association. Furthermore, the Association may from time to time delegate any and all of its rights, powers, discretion and duties hereunder to such agent or agents as it may designate.

Section 11.3 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 11.4 Duration and Term. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants and restrictions shall be automatically extended and renewed for successive ten (10) year periods.

Section 11.5 Amendment. This Declaration may be amended by a majority of the votes entitled to be cast at any meeting at which a quorum is present as provided in the By-Laws when written notice of such meeting specifies the proposed amendment and amendments to be considered at such meeting. If an amendment is approved by the Members in the foregoing manner, the President and Secretary of the Association shall execute an Amendment to this Declaration which shall set forth the amendment, the effective date thereof, the date of the

meeting of the Association at which such amendment was adopted, the date upon which notice of such meeting was given, the number of votes required to constitute a quorum at such meeting, the number of votes necessary to adopt the amendment, the total number of votes cast in favor of the amendment, and the total numbers of votes cast against the amendment. Anything contained herein to the contrary notwithstanding, there shall be no amendments to the Declaration that materially or adversely affect rights granted or reserved herein to the Association without its written consent. All amendments to this Declaration shall be recorded in the Public Records of Polk County, Florida. Anything contained herein to the contrary notwithstanding, any amendment to this Declaration which would tend to alter or affect the Surface Water or Stormwater Management System must require prior written approval of the Southwest Florida Water Management District.

Section 11.6 Effect of Recording. Any Lot situated within the Property shall be deemed to be "subject to assessment", as such term is used in this Declaration, the Articles or the By-Laws, upon recording of this Declaration; and, any Additional Property annexed pursuant to the provisions hereof shall be deemed "subject to assessment" upon recording of the appropriate supplement or amendment to this Declaration annexing the same. This Amended and Restated Declaration, together with all exhibits, supersedes all prior governing documents and shall be the Declaration enforced and binding on all members.

Certification of Amended and Restated Declaration

We, the undersigned, hereby certify that this Amended and Restated Declaration was adopted by at least two-thirds of the Voting Members present in person or by proxy at the duly noticed Members' meeting at which a quorum was present held on this 7 day of December, 2024, at which 45 voted in favor and 0 voted against. The number of votes required to adopt this amendment was 31. Notice of the meeting was given pursuant to the governing documents of the Association and the Florida Statutes on 11/6, 2024.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be duly executed as of the day and year first above written.

Witnesseth:

**CALABAY PARC AT TOWER LAKE
HOMEOWNERS ASSOCIATION, INC.**

Caslyne Coarun

Name: Caslyne Coarun

Address: 4110 S. Florida Ave. #200

Lakeland, FL 33813

Sharon Hardin

Name: Sharon Hardin

Address: 4110 S. Florida Ave. #200

Lakeland, FL 33813

By: J.A. Vaillancourt

Name: J.A. Vaillancourt

As Its: President

By: Jean Reese

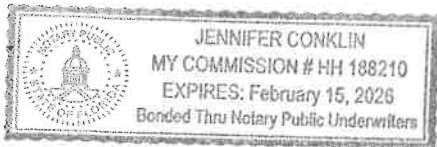
Name: Jean Reese

As Its: Secretary

STATE OF FLORIDA
COUNTY OF POLK

The foregoing Amended and Restated Declaration was acknowledged before me this 7 day of December, 2024, by Josh Vaillancourt, the President of the Association, on behalf of the corporation, and Jean Reese as Secretary of the Association, who are personally known to me or produced _____ and _____ as identification, and who did not take an oath.

NOTARY STAMP




Jennifer Conklin
Notary Public

EXHIBIT “A”

Articles of Incorporation

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of CALABAY PARC AT TOWER LAKE HOMEOWNERS ASSOCIATION, INC., a Florida corporation, filed on October 29, 2004, as shown by the records of this office.

The document number of this corporation is N04000010313.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Third day of November, 2004



CR2EO22 (2-03)

Glenda E. Hood
Glenda E. Hood
Secretary of State

FILED

**ARTICLES OF INCORPORATION
OF
CALABAY PARC AT TOWER LAKE
HOMEOWNERS ASSOCIATION, INC.**

04 OCT 29 AM 9:49
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The undersigned subscriber to these Articles of Incorporation, being a natural person competent to contract, hereby declares that these Articles of Incorporation are being executed, for the purpose of forming a corporation not for profit under and by virtue of the laws of the State of Florida, and specifically under and by virtue of the provisions of Chapter 617, Florida Statutes.

ARTICLE I

The name of the corporation shall be ***CALABAY PARC AT TOWER LAKE HOMEOWNERS ASSOCIATION, INC.***, and its principal place of business shall be located at 6000 MetroWest Boulevard, Suite 105, Orlando, Florida 32835.

ARTICLE II

This corporation shall have all of the powers conferred upon general corporations not for profit pursuant to the laws of the State of Florida and, without limiting the generality of the foregoing, this corporation is formed to provide for the maintenance, preservation and architectural control of the residential lots and common areas within that certain residential community to be known as **Calabay Parc at Tower Lake** and to promote the health, safety and welfare of the residents within the community and any additions thereto as may hereafter be brought within the jurisdiction of this corporation and for the foregoing purposes shall have the power to:

- (1) Exercise all of the powers and privileges, and perform all of the duties and obligations delegated in any *Declaration of Covenants*,

Conditions and Restrictions (hereinafter sometimes referred to as the "Declaration") that may be hereafter recorded in the Public Records of Polk County, Florida, wherein this corporation may be designated as the Association, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as fully, and to the same extent, as if its terms and provisions were contained herein;

- (2) Operate, maintain and manage the Surface Water Management System constituting a part of **Calabay Parc at Tower Lake** in a manner consistent with the rules and requirements of the Southwest Florida Water Management District and levy and collect adequate assessments for the costs of maintenance and operation of the Surface Water Management System;
- (3) Fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration and pay all expenses in connection therewith, including office and other expenses incident to the conduct of the business of this corporation, including all licenses, taxes or governmental charges levied or imposed against property of the corporation;
- (4) Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the corporation;
- (5) Borrow money, and with the assent of two-thirds (2/3) of each class of members, mortgage, pledge or hypothecate any or all of the real property of the corporation as security for money borrowed or debts incurred;
- (6) Participate in mergers and consolidations with other corporations not for profit organized for the same purposes provided that any such merger or, consolidation shall have the assent of two-thirds (2/3) of each class of members.

ARTICLE III

Every person or entity who is a record owner of a fee or undivided fee interest in any lot or parcel which is subject to the Declaration shall be a member of this corporation. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to, and may not be separated from, ownership of any lot or parcel which is subject to the Declaration.

ARTICLE IV

This corporation shall have perpetual existence which shall commence with the filing of these Articles of Incorporation with the Florida Department of State.

ARTICLE V

The name and street address of the initial registered agent and registered office of this corporation shall be PHILIP TATICH, 341 North Maitland Avenue, Suite 340, Maitland, Florida 32751.

ARTICLE VI

The business of this corporation shall be managed, and its corporate powers exercised, by a Board consisting of three (3) or more Directors, the precise number to be fixed from time to time as provided in the By-Laws of the corporation. The members of the Board of Directors shall be elected in the manner set forth in said By-Laws.

ARTICLE VII

The name and street address of the members of the first Board of Directors, who, subject to the provisions of the Articles of Incorporation, the By-Laws of the corporation, and Chapter 617, Florida Statutes, shall hold office during the first year of the corporation's existence, or until their successors are elected and have been qualified, are as follows:

Joseph Kantor
6000 MetroWest Boulevard
Suite 105
Orlando, Florida 32835

Fanny R. McNeese
6000 MetroWest Boulevard
Suite 105
Orlando, Florida 32835

Phillp Tatich
341 North Maitland Avenue
Suite 340
Maitland, Florida 32751

ARTICLE VIII

The name and street address of the Subscriber to these Articles of Incorporation is PHILIP TATICH, 341 North Maitland Avenue, Suite 340, Maitland, Florida 32751.

ARTICLE IX

The corporation shall have two (2) classes of voting membership:

Class A - Class A members shall be all Owners (with the exception of WESCOTT - TOWER LAKE, LLC, a Florida limited liability company, its successors or assigns) with each such member being entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Class B - The Class B member shall be WESCOTT - TOWER LAKE, LLC, a Florida limited liability company, its successors or assigns, which shall be entitled to three (3) votes for each lot owned by Declarant which has platted or approved for platting pursuant to the applicable ordinances and regulations of Polk County. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier, (i) the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or (ii) January 1, 2010.

ARTICLE X

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

corporation, the responsibility for the operation and maintenance of the Surface Water Management System must be transferred to, and accepted by, an entity which would comply with the applicable provisions of administrative rules and regulations of the Southwest Florida Water Management District prior to such termination, dissolution or liquidation.

ARTICLE XI

The amendment of these Articles shall require the affirmative vote of seventy-five percent (75%) of all classes of members.

IN WITNESS WHEREOF, the undersigned Subscriber to these Articles of Incorporation have hereunto set his hand and seal on this the 25th day of October, 2004.


Philip Tatich

FILED
04 OCT 29 AM 9:49
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ACCEPTANCE OF DESIGNATION AS REGISTERED AGENT

The undersigned, having been designated as Registered Agent in the Articles of Incorporation of **CALABAY PARC AT TOWER LAKE HOMEOWNERS ASSOCIATION, INC.**, a proposed Florida corporation, does hereby accept such designation and agrees to comply with the requirements incident thereto.


Philip Tatich
341 North Maitland Avenue, Suite 340
Maitland, Florida 32751

F:\RE\WESCOTT\TOWER-LAKE\HOA\AOI

EXHIBIT “B”

Bylaws

**BY-LAWS
OF
CALABAY PARC AT TOWER LAKE
HOMEOWNERS ASSOCIATION, INC.**

The name of the corporation is ***CALABAY PARC AT TOWER LAKE HOMEOWNERS ASSOCIATION, INC.***, hereinafter referred to as the "Association". The principal office of the corporation shall be located at 6000 MetroWest Boulevard, Suite 105, Orlando, Florida 32835, but meetings of members and directors may be held at such place within the State of Florida as may be designated by the Board of Directors.

ARTICLE I - DEFINITIONS

Section 1.1 "*Association*" shall mean and refer to **CALABAY PARC AT TOWER LAKE HOMEOWNERS ASSOCIATION, INC.**, a Florida not for profit corporation, its successors and assigns.

Section 1.2 "*Common Area*" shall mean and refer to those areas of land shown on any recorded subdivision plat of the Properties intended to be devoted to the common use and enjoyment of the Owners of the Properties, all real property, including any improvements thereon, owned by the Association for the common use and enjoyment of the Owners, any Lot or parcel of land subsequently deeded by the Declarant to the Association for the use by the Owners, the Surface Water or Stormwater Management System, and the rights of way of all streets within the Properties.

Section 1.3 "*Declarant*" shall mean and refer to Wescott - Tower Lake, LLC., a Florida limited liability company, or its successors or assigns under the Declaration.

Section 1.4 "*Declaration*" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions recorded in the Public Records of Polk County, Florida, as it may, from time to time, be amended or supplemented.

Section 1.5 "*Lot*" shall mean and refer to any parcel of land shown on any recorded subdivision map or plat of the Property upon which shall be located a residential dwelling unit.

Section 1.6 "*Member*" shall mean and refer to all Owners who are Members of the Association as provided in the Declaration.

Section 1.7 "*Owner*" shall mean and refer to the owner as shown on the records of the Association (whether it be the Declarant, one or more persons, firms or legal entities) of fee simple title to any Lot located within the Property. Owner shall not mean the holder of any mortgage or lien unless and until such holder has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure nor shall the term include any lessee or tenant of Owner.

Section 1.8 "*Property*" shall mean and refer to that certain real property described in the Declaration and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

ARTICLE II - MEETING OF MEMBERS

Section 2.1 Annual Meetings. The first Annual Meeting of the Members shall be held within one (1) year from the date of incorporation of the Association, and each subsequent regular Annual Meeting of the Members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 o'clock P.M. If the date for the Annual Meeting of the Members is a Saturday, Sunday or legal holiday, the meeting will be held at the same hour on the first day following which is not a Saturday, Sunday or legal holiday.

Section 2.2 Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

Section 2.3 Notice of Meeting. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or other person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting, to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 2.4 Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such

quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 2.5 Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

ARTICLE III - BOARD OF DIRECTORS

Section 3.1 Number. The affairs of this Association shall be managed by a Board of Directors consisting of not less than three (3), the precise number of directors (which shall at all times be an odd number) to be determined by the Members at the Annual Meeting of the Members held pursuant to Section 2.1 of ARTICLE II. The directors need not be Members of the Association.

Section 3.2 Term of Office. At the first Annual Meeting, the Members shall elect one (1) director for a term of one year, one (1) director for a term of two (2) years and one (1) director for a term of three (3) years; and, at each Annual Meeting thereafter, the Members shall elect one (1) director for a term of three (3) years. Each director shall hold office until his successor has been duly elected or until his death, resignation or removal, whichever shall earlier occur.

Section 3.3 Removal. Any director may be removed from the Board, with or without cause, by a majority of the votes present in person or by proxy at a meeting called for the purpose of taking action with respect to the removal of a director. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 3.4 Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 3.5 Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of a majority of the directors, so long as notice of such proposed action is delivered to all directors for approval or disapproval. Any action so approved shall have the same effect as through taken at a meeting of the directors.

ARTICLE IV - NOMINATION AND ELECTION OF DIRECTORS

Section 4.1 Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the Annual Meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and one (1) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each Annual Meeting of the Members, to serve from the close of such Annual Meeting until the close of the next Annual Meeting and such appointment shall be announced at each Annual Meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 4.2 Election. Election to the Board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE V - MEETINGS OF DIRECTORS

Section 5.1 Annual Meetings. Immediately following the Annual Meeting of the Members, the Board of Directors shall meet for the purpose of electing officers and for the transaction of such other business as may properly come before the meeting.

Section 5.2 Regular Meetings. Regular meetings of the Board of Directors shall be held no less frequently than bi-monthly without notice at such place and hour as may be fixed from time to time by resolution of the Board.

Section 5.3 Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two (2) directors, after not less than three (3) days written notice to each director.

Section 5.4 Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VI - POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 6.1 Powers. The Board of Directors shall have the power and authority to:

(a) Adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the Membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(c) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board or Directors; and

(d) Employ a manager, independent contractors, or such other employees as they deem necessary, and to prescribe their duties.

Section 6.2 Duties. It shall be the duty of the Board of Directors to:

(a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the Annual Meeting of the Members, or any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A Members who are entitled to vote;

(b) Supervise all officers, agents and employees of this Association and to see that their duties are property performed;

(c) As more fully provided in the Declaration, to:

(i) Fix the amount of the Annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(ii) Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(iii) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same.

(d) Issue, or to cause an appropriate office to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive

evidence of such payment;

(e) Procure and maintain adequate liability and hazard insurance for the benefit of the Association, its Members, officers and directors.

(f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(g) Cause the Common Area to be maintained.

ARTICLE VII - OFFICERS AND THEIR DUTIES

Section 7.1 Enumeration of Offices. The officers of this Association shall be President and Vice-President, each of whom shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 7.2 Election of Officers. The election of officers shall take place at the first meeting of the Board or Directors following each Annual Meeting of the Members.

Section 7.3 Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless they shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 7.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 7.5 Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 7.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7.7 Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any

of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 7.8 Duties. The duties of the officers are as follows:

(a) **President** - The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) **Vice President** - The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) **Secretary** - The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) **Treasurer** - The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular Annual Meeting, and deliver a copy of each to the Members.

ARTICLE VIII - COMMITTEES

The Association shall appoint an Architectural Review Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors may create such other committees as it may deem necessary or appropriate.

ARTICLE IX - BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration,

the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at a reasonable cost.

ARTICLE X - ASSESSMENTS

Subject to, and as more fully provided in, the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessments is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate prescribed in the Declaration, and the Association may bring an action of law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise avoid liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

ARTICLE XI - CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: *CALABAY PARC AT TOWER LAKE HOMEOWNERS ASSOCIATION, INC.*

ARTICLE XII - AMENDMENTS

These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and, in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIII - MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

EXHIBIT “C”

Description of the Property

Parcel 1

Commence at the Southeast corner of the Northwest 1/4 of the Southeast 1/4 of Section 17, Township 27 South, Range 27 East, Polk County, Florida, and run S90°00'00"W along the South boundary thereof, 540.00 feet to the Point of Beginning; thence continue S90°00'00"W, 788.80 feet; thence S89°59'22"W, 994.85 feet; thence N00°10'47"E, 1306.74 feet; thence S89°53'04"E, 559.80 feet to a point of the Southerly right-of-way line of Bates Road, said point being a non-tangent intersection with a curve concaved Northeasterly, having a radius of 406.97 feet, a chord distance of 99.42 feet and a chord bearing of S83°04'57"E; thence Southeasterly along the arc of said curve and said right-of-way line, through a central angle of 14°01'56", an arc distance of 99.67 feet to the end of said curve; thence N89°54'05"E along said right-of-way, 310.52 feet; thence N87°31'25"E along said right-of-way, 232.80 feet; thence S89°43'55"E, 160.52 feet; thence S00°10'36"W, 277.97 feet; thence S89°56'06"E, 359.86 feet; thence S00°03'54"W, 125.00 feet; thence S10°11'03"E, 40.65 feet; thence S00°03'54"W, 120.00 feet; thence S89°56'06"E, 51.22 feet; thence S00°01'24"E, 739.86 feet to the Point of Beginning. Less and Except: Commence at the Southeast corner of the Northwest 1/4 of the Southeast 1/4 of Section 17, Township 27 South, Range 27 East, Polk County, Florida; thence N89°48'00"W along the South line of said Northwest 1/4 of the Southeast 1/4 a distance of 1198.25 feet; thence N00°00'00"E, 337.11 feet to the Point of Beginning; thence continue N00°00'00"E, 141.00 feet; thence S90°00'00"W, 336.92 feet to the point of curvature of a curve concaved Southeasterly, having a central angle of 75°44'10" and a radius of 30.00 feet; thence Southwesterly along said curve, 39.66 feet to the point of reverse curvature of a curve concaved Northwesterly having a central angle of 09°26'59", a radius of 760.00 feet, a chord bearing of S18°59'20"W (S18°47'19"W field) and a chord distance of 125.20 feet; thence Southwesterly along said curve 125.35 feet; thence N90°00'00"E, 406.74 feet to the Point of Beginning.

Parcel 2-A

Commence at the Southeast corner of the Northwest 1/4 of the Southeast 1/4 of Section 17, Township 27 South, Range 27 East, Polk County, Florida and run S90°00'00"W along the South boundary thereof, 540.00 feet; thence N00°01'24"W, 739.86 feet to the Point of Beginning; thence continue N00°01'24"W, 31.69 feet; thence N89°58'36"E, 110.83 feet; thence N89°35'46"E, 40.68 feet to a non-tangent intersection with a curve concaved Southeasterly, having a radius of 55.00 feet, a chord distance of 2.94 feet and a chord bearing of N14°57'23"E; thence

Northeasterly along the arc of said curve through a central angle of $03^{\circ}04'00''$, an arc distance of 2.94 feet to the end of said curve; thence $N16^{\circ}29'24''E$, 30.22 feet; thence $S73^{\circ}30'36''E$, 111.42 feet to a non-tangent intersection with a curve concaved Southeasterly, having a radius of 200.00 feet, a chord distance of 55.04 feet and a chord bearing of $N18^{\circ}45'28''E$; thence Northeasterly along the arc of said curve through a central angle of $15^{\circ}49'08''$, an arc distance of 55.22 feet to the end of said curve; thence $N23^{\circ}27'03''E$, 50.42 feet to a non-tangent intersection with a curve concave Westerly, having a radius of 220.00 feet, a chord distance of 51.24 feet and a chord bearing of $N06^{\circ}51'49''E$; thence Northeasterly along the arc of said curve through a central angle of $13^{\circ}22'27''$, an arc distance of 51.35 feet to the end of said curve; thence $N00^{\circ}16'05''E$, 238.57 feet; thence $N89^{\circ}43'55''W$, 48.07 feet; thence $N00^{\circ}16'05''E$, 140.00 feet to a point on the South right-of-way line of Bates Road; thence $N89^{\circ}43'55''W$ along said right-of-way line, 232.54 feet; thence $S00^{\circ}10'36''W$, 276.37 feet; thence $N89^{\circ}56'06''W$, 90.01 feet; thence $S00^{\circ}03'54''W$, 125.00 feet; thence $S10^{\circ}11'03''E$, 40.65 feet; thence $S00^{\circ}03'54''W$, 120.00 feet; thence $S89^{\circ}56'06''E$, 51.22 feet to the Point of Beginning.

PARCEL 2-B

Begin at the Southeast corner of the Northwest 1/4 of the Southeast 1/4 of Section 17, Township 27 South, Range 27 East, Polk County, Florida, and run $S90^{\circ}00'00''W$ along the South boundary thereof, 540.00 feet; thence $N00^{\circ}01'24''W$, 771.54 feet; thence $N89^{\circ}58'36''E$, 110.83 feet; thence $N89^{\circ}35'46''E$, 40.68 feet to a non-tangent intersection with a curve concaved Southeasterly, having a radius of 55.00 feet, a chord distance of 2.94 feet and a chord bearing of $N14^{\circ}57'23''E$; thence Northeasterly along the arc of said curve through a central angle of $03^{\circ}04'00''$, an arc distance of 2.94 feet to the end of said curve; thence $N16^{\circ}29'24''E$, 30.22 feet; thence $S73^{\circ}30'36''E$, 111.42 feet; to a non-tangent intersection with a curve concaved Southeasterly, having a radius of 200.00 feet; a chord distance of 55.04 feet and a chord bearing of $N18^{\circ}45'28''E$; thence Northeasterly along the arc of said curve through a central angle of $15^{\circ}49'08''$, an arc distance of 55.22 feet to the end of said curve; thence $N23^{\circ}27'03''E$, 50.42 feet to a non-tangent intersection with a curve concave Westerly, having a radius of 220.00 feet, a chord distance of 51.24 feet and a chord bearing of $N06^{\circ}51'49''E$; thence Northeasterly along the arc of said curve through a central angle of $13^{\circ}22'27''$, an arc distance of 51.35 feet to the end of said curve; thence $N00^{\circ}16'05''E$, 238.57 feet; thence $N89^{\circ}43'55''W$, 48.07 feet; thence $N00^{\circ}16'05''E$, 140.00 feet to a point on the South right-of-way line of Bates Road; thence $S89^{\circ}43'55''E$, 936.62 feet; thence $S00^{\circ}07'25''E$, 636.67 feet; thence $N89^{\circ}58'45''W$, 663.22 feet; thence $S00^{\circ}01'24''E$, 659.29 feet to the Point of Beginning.

PARCEL 3

Tracts 11 and 12 in the Southeast 1/4 of Section 17, Township 27 South, Range 27 East, FLORIDA DEVELOPMENT COMPANY'S SUBDIVISION, according to the Map or Plat thereof recorded in Plat Book 3, Page 60, Public Records of Polk County, Florida.

THE ABOVE-DESCRIBED PARCELS ARE ALSO DESCRIBED AS:

Lots 1 – 159, inclusive, and Tracts A – P, inclusive, CALABAY PARC AT TOWER LAKE, PB 129, Pages 6-7, public records of Polk County, Florida.

Lots 160 – 272, inclusive, and Tracts Q – U, inclusive, CALABAY PARC AT TOWER LAKE PHASE TWO, PB 136, Pages 4-5, public records of Polk County, Florida.

Lots 273 – 300, inclusive, and Tracts D, E and F, inclusive, CALABAY PARC AT TOWER LAKE PHASE THREE, PB 147, Pages 21, public records of Polk County, Florida.