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**Prepared by and
when recorded return to:**

Josiah A. Bancroft, Esq.
Hartman, Simons & Wood, LLP
6400 Powers Ferry Road, NW, Suite 400
Atlanta, Georgia 30339

Cross Reference to:

Book 19336, Page 1598;
Book 19336, Page 1616; and
Book ___, Page ___,
Records of Hillsborough County, Florida

**DECLARATION OF COVENANTS
AND
RECIPROCAL EASEMENT AND OPERATING AGREEMENT**

THIS DECLARATION OF COVENANTS AND RECIPROCAL EASEMENT AND OPERATING AGREEMENT (this "**Declaration**" or "**Agreement**") is made as of the ~~29th~~ day of June, 2010, by **VCLASS TEMPLE TERRACE, LLC**, a Georgia limited liability company having an address at Meridian Buckhead, 3334 Peachtree Road, Suite 1703, Atlanta, Georgia 30326 ("**Master Developer**"), and is joined for the purposes herein set forth by the **CITY OF TEMPLE TERRACE**, a Florida municipal corporation having an address at 11250 North 56th Street, P.O. Box 16930, Temple Terrace, Florida 33687 (the "**City**").

WITNESSETH:

WHEREAS, in furtherance of the City's desire to implement its vision for a new "downtown Temple Terrace", the City and Master Developer entered into that certain City of Temple Terrace Master Developer's Agreement dated as of June 30, 2009, as amended by First Amendment to Master Developer's Agreement between such parties dated effective as of November 30, 2009, and Second Amendment to Master Developer's Agreement between such parties dated May 18, 2010 (as so amended, the "**MDA**"), notice of such MDA having been placed of record by virtue of execution and recording of that certain Memorandum of Master Developer's Agreement between the City and Master Developer dated as of July 1, 2009, and recorded at Book 19336, Page 1598, in the Official Records of Hillsborough County, Florida; and

WHEREAS, pursuant to the terms of the MDA and by virtue of (i) that certain Quitclaim Deed from the City to Master Developer dated July 1, 2009, and recorded at Book 19336, Page 1616, in the Official Records of Hillsborough County, Florida, and (ii) that certain Corrective Deed from the City to Master Developer dated June 30, 2010, and recorded at Book 19954 Page 1849 aforesaid records (collectively, the "**Vesting Deeds**"), the City conveyed to Master

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Developer, and Master Developer is the owner in fee of, certain real property located within the municipal boundaries of Temple Terrace in Hillsborough County, Florida, more particularly described as the "Property" in the MDA, such Property including (without limitation) the tract of land more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof (herein referred to as the "**Site**"), subject to the terms of the MDA (including, without limitation, certain rights of reacquisition of some or all of the Site by the City in accordance with the provisions of the MDA); and

WHEREAS, pursuant to the MDA, the parties contemplate construction and development upon the Site of certain retail, residential, office and mixed-use buildings, with associated driveways, sidewalks, parking fields, signs, lights and utilities (collectively, the "**Project**"), generally in accordance with the site plan attached hereto as Exhibit "B" and by this reference made a part hereof, as such site plan may from time to time be modified in accordance with the terms of the MDA; and

WHEREAS, to facilitate such development and in connection with use and occupancy of the Project, Master Developer anticipates that the Project will be comprised of multiple buildings constructed upon multiple parcels within the Site designated by Master Developer in accordance with the provisions of the MDA and this Declaration (any parcel of the Site designated for separate development in accordance with the terms of the MDA and this Declaration being hereinafter called a "**Parcel**" as more fully set forth below, with the term "**Parcels**" herein meaning all or any one or more of such parcels so designated by Master Developer, as the context requires or permits);

WHEREAS, Master Developer recognizes that it is essential for the most favorable development of the Site and Project as a whole that all parties participating in ownership, development, construction, management, operation and occupancy of the Site or portions thereof be subject to and bound by certain covenants, agreements and restrictions with respect to the Project and that certain rights and easements in favor of the various Parcels and parties owning, managing and occupying the Project be established, all so as to facilitate overall construction, management, operation and occupancy thereof in accordance with the provisions of this Declaration; and

WHEREAS, Master Developer desires by virtue of this Declaration to establish such covenants, agreements, restrictions, rights and easements; and

WHEREAS, the City is joining in the execution of this Declaration, with respect to its remaining rights under the MDA (including, without limitation, any and all rights to reacquire any or all of the Site), to manifest its consent to the terms and provisions hereof, to confirm and establish that the Site is and shall be subject to the terms of this Declaration and to agree that any portion of the Site that may be hereafter reacquired by the City in accordance with the provisions of the MDA shall be reacquired, owned and held by the City and its successors, successors-in-title and assigns, subject to this Declaration and the covenants, agreements, restrictions, rights and easements intended and established hereby;

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00), other valuable consideration and the covenants and agreements hereinafter set forth, Master Developer, joined by the City, hereby declares as follows:

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ARTICLE 1 DEFINITIONS; RECITALS

1.1 **Certain Defined Terms.** As used in this Declaration (and in addition to terms defined elsewhere herein), the following terms shall have the following meanings (such meanings to be applicable to both the singular and plural forms of the terms defined, as applicable):

1.1.1 **"Applicable Zoning"** shall mean the zoning and related conditions applicable to the Project, or any part thereof, on the date hereof, including without limitation, the Zoning Ordinance of the City of Temple Terrace, Florida, and any and all regulations promulgated thereunder, together with all modifications, amendments, variances, special uses or special exceptions thereto hereafter made or granted by a Governmental Authority.

1.1.2 **"Approve", "Approved" or "Approval"** shall mean an express prior approval in a written statement signed by the approving Person.

1.1.3 **"Assessments"** shall mean, as to a given Owner and collectively, (i) General Assessments payable by all Owners and (ii) all other Special Assessments or other costs and expenses in the nature thereof payable by an Owner pursuant to the terms hereof.

1.1.4 **"Association"** shall mean a Florida not-for-profit corporation organized by Master Developer in accordance with the provisions of this Declaration.

1.1.5 **"Board of Directors" or "Board"** shall mean the Board of Directors of the Association.

1.1.6 **"Building"** shall mean and include the main portion of a structure placed, constructed or located on a Parcel and all appurtenant outward projections or extensions thereof, including, but not limited to, supports, outside platforms, loading docks and truck ramps, canopies and enclosed malls.

1.1.7 **"Business Day"** shall mean any day that is not a Saturday, Sunday or United States holiday (being days upon which the U.S. Postal Service does regularly not deliver mail).

1.1.8 **"Common Areas"** shall mean all areas within the exterior boundaries of the Site, together with all Improvements constructed thereon from time to time which are provided for the common use of the Owners, Occupants and Permittees of the Parcels and their business invitees, exclusive of (i) Buildings, (ii) sidewalks, passageways, entrances and exits into and from a Building (including any "drive-thru lane" associated therewith) that are immediately adjacent to and contiguous with such Building and (iii) any Designated Restricted Area, to the extent provided herein. Common Areas include, by way of example (but without limitation), parking areas, sidewalks, driveways, entrances, exits and landscaped areas, but exclude any Designated Restricted Areas when and to the extent provided herein, truck docks and similar improvements constructed for the benefit and use of a single Owner or Occupant or other amenities (such as swimming pools or other recreational or exercise facilities intended for use by the Owner or Occupants of a specific Parcel (such as a Parcel devoted to Residential Use)). Without limitation, Main Street shall be deemed a Common Area, and the Park Parcel shall be

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deemed a Common Area prior to any dedication of same as a public park. **"Common Area Improvements"** shall mean any Improvements comprising a portion of the Common Areas.

1.1.9 **"Common Facilities"** shall mean the Common Areas comprised of Main Street, the Park Parcel (prior to any dedication of same as a public park) and the Project Signs and all pavement, parking areas, sidewalks, landscaping, signage, lighting and other improvements within the boundaries thereof or comprising same (exclusive of Owner's panels on the Project Signs). In addition, "Common Facilities" shall include the Common Areas on each Parcel and all pavement, parking areas, sidewalks, landscaping, signage, lighting and other improvements within such Common Areas (exclusive of Owner's panels on the Project Signs).

1.1.10 **"Common Facilities Costs"** shall mean any and all expenses incurred by the Master Developer or, following the Turnover Date, the Association (exclusive of costs of initial installation) with respect to the Common Facilities, including, but not limited to, the expenses of maintenance, landscaping, operation, lighting and repair of the Common Facilities, such as (without limitation) (a) costs of overhead, labor, equipment, utilities, insurance and materials incurred in connection therewith, (b) ad valorem real and personal property taxes assessed against the Common Facilities to the extent paid by the Operator and (c) following the Turnover Date, costs associated with maintenance and administration of the Association and all costs incurred by the Association in properly discharging its duties hereunder; provided that Common Facilities Costs shall not include costs with respect to the Project Signs that are to be reimbursed in accordance with the provisions of Section 3.4 hereof.

1.1.11 **"Common Utility Lines"** shall mean the Surface Water Management System, lighting, water and sanitary sewer lines, and fire line systems within the boundaries of the Site.

1.1.12 **"Common Utility Costs"** shall mean any and all expenses incurred by the Master Developer or, following the Turnover Date, the Association (exclusive of costs of initial installation) with respect to the Common Utility Lines, including, but not limited to, the expenses of maintenance, operation, lighting and repair of the Common Utility Lines, such as (without limitation) (a) costs of overhead, labor, equipment, and materials incurred in connection therewith, and (b) cost of complying with any requirements, rules, and regulations of and permits issued by any Governmental Authority; provided that Common Utility Costs shall not include costs of utilities which service Buildings on a Parcel as described in Section 6.1.3 hereof.

1.1.13 **"Default Rate"** shall mean an annual rate of interest equal to the lesser of (i) the "Prime Rate" (meaning, for purposes hereof, the prime rate or base rate of interest announced from time to time by Bank of America, N.A., or its successor, in Tampa, Florida, whether or not such rate has been actually charged by such bank), as it may change from time to time, plus four percentage points or (ii) the maximum rate allowable under the laws of that State of Florida. In the event such bank discontinues the practice of announcing such rate, the term Prime Rate shall mean the highest rate charged by such bank on short term, unsecured loans to its most creditworthy large corporate borrowers for commercial loans of short term maturities.

1.1.14 **"Designated Restricted Area"** or **"Designated Restricted Areas"** shall mean any portion or portions of a Parcel or Parcels designated or Approved as such by Master Developer in accordance with and subject to the further provisions of Section 3.2 hereof.

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1.1.15 "**Foreclosure**" shall mean, without limitation (i) the judicial foreclosure of a Mortgage, (ii) the exercise of a power of sale contained in any Mortgage, (iii) conveyance of the property encumbered by a Mortgage in lieu of foreclosure thereof, or (iv) any action commenced or taken by a lessor to regain possession or control of property leased to a lessee in a transaction commonly known as a "sale/leaseback."

1.1.16 "**Governmental Authority**" shall mean the United States of America; the State of Florida; Hillsborough County, Florida; the City in its role as a municipality; and/or any agency, authority, court, department, commission, board, bureau or instrumentality of any of them. "**Governmental Authorities**" shall mean more than one Governmental Authority.

1.1.17 "**Improvements**" shall mean and include every structure and all appurtenances thereto of every kind and type and any other physical change upon, over, across, above or under the Project or any part thereof. "**Improvements**" shall include, but not be limited to, the following facilities or activities, whether of a permanent or temporary nature: any and all Buildings, access roads, driveways, sidewalks, walkways, pedestrian malls, bike paths, running or jogging paths, ways or trails, traffic control devices, signals and signs, parking lots and other parking areas, loading areas, signs, canopies, awnings, trellises, fences, lawns, landscaping (including, without limitation, landscaping of balconies, plazas and other portions of Buildings), water features, green areas, parks, plazas, patios, shelters, seating areas, storage facilities, security and safety devices, bridges, construction trailers and other temporary construction outbuildings, trash and waste receptacles, screening walls, retaining walls, stairs, decks, benches and other exterior furniture, hedges, windbreaks, plantings, planted trees and shrubs, poles, exterior air conditioning, heating or air-handling equipment, water softener fixtures or equipment, irrigation systems and equipment, aerials, antennas, lighting fixtures, drainage structures, communications equipment, including, without limitation, microwave dishes and relay equipment, coaxial and fiber optic cables, satellite transmitting and/or receiving ground stations, poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities, and the color, texture, or material or other change to any Improvements.

1.1.18 "**Main Street**" shall mean the new through street to be constructed upon the Site within the area shown on Exhibit "C" attached hereto and by this reference made a part hereof and labeled thereon as "Main Street."

1.1.19 "**Mortgage**" shall mean a mortgage, deed of trust, or other similar security instrument now or hereafter duly recorded in the real property records of Hillsborough County, Florida, conveying a lien upon or security title to the Project, any part thereof or any interest or estate therein or any Improvements thereon, in a transaction commonly known as a "sale/leaseback."

1.1.20 "**Mortgagee**" shall mean the holder of a Mortgage.

1.1.21 "**Occupant**" shall mean any Person holding a leasehold interest in any of the real property subject to this Declaration, or any other right to use or possess any of the same.

1.1.22 "**Office Use**" shall mean use of a Building on a Parcel for single tenant or multi-tenant occupancy for general office uses consistent with the caliber of the Project and having Occupants comparable to other office tenants in comparable office and mixed-use

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developments in the metropolitan Tampa, Florida area, and shall include ancillary retail, food service and support uses incidental thereto.

1.1.23 "**Owner**" shall mean any Person or Persons, including, without limitation, Master Developer, who own(s) or hold(s) an aggregate fee simple interest in a Parcel, as shown by the public real estate records of Hillsborough County, Florida, subject to the following agreements, understandings and rules:

1.1.23.1 Any person having an interest in a Parcel solely as security under a Mortgage shall not be deemed an Owner, unless such Person shall have excluded the mortgagor from possession thereof or development rights with respect thereto by appropriate legal proceedings following a default under such Mortgage or has acquired fee simple title to such property by Foreclosure;

1.1.23.2 Occupants and other individual tenants or lessees of any Parcel or other portion of the Project shall not be deemed an Owner thereof, unless and except to the extent otherwise stipulated in a writing recorded in the Real Property Records of Hillsborough County, Florida, by the Person that would be deemed the Owner thereof pursuant to the terms hereof, absent such stipulation; and

1.1.23.3 any Person holding or owning only easements, rights-of-way or licenses that pertain to or affect any real property within the Site shall not be deemed an Owner.

1.1.24 "**Parcel**" shall mean any parcel of land that is part of the Project and designated a Parcel by Master Developer pursuant to Article 4 hereof, with the size, dimensions and boundaries of such Parcel being as designated by Master Developer. In connection with Master Developer's designation of any portion of the Site as a Parcel, Master Developer shall execute and record a supplement to this Declaration (each a "**Declaration Supplement**") setting forth the final configuration of the Parcel so designated and, if applicable and as contemplated by Section 3.4 below, (i) any Project Sign Easement Area located upon such Parcel that will be subject to an easement as herein provided and/or (ii) panel area on either or both of the Project Signs, if any, allocated to such Parcel. The Declaration Supplement recorded upon designation of each Parcel shall also include a copy of the Site Plan (a "**Parcel Plan**") with all Parcels then or previously designated by Master Developer overlaid thereupon. Upon recordation of a Declaration Supplement (which need only be executed and recorded by Master Developer alone, unless boundaries of any Parcel owned by a Person other than Master Developer are affected thereby, in which case each such Owner must also join in execution and recordation of the Declaration Supplement), the Parcels thereafter shall be as configured on the Parcel Plan (original or revised, as to subsequent recordings) attached to such Declaration Supplement (provided that no such Declaration Supplement or Parcel Plan may modify or alter the boundaries of a Parcel owned by any Owner other than Master Developer at the time of such modification without the written consent and Approval of such Owner, not to be unreasonably withheld, delayed or conditioned). Without limiting the foregoing, it is understood that Master Developer may, subject to any Requirement of a Governmental Authority, alter the configuration of a Parcel previously designated and/or subdivide or combine Parcels sooner designated, provided and so long as any Owner other than Master Developer whose Parcel boundaries are affected thereby consents to such alteration, subdivision or combination and joins in the execution of the Declaration Supplement as above provided. Master Developer and any other required Owner shall reflect any such alteration, subdivision or combination by execution and

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recordation of another Declaration Supplement reflecting same. If any portion of the Project should be submitted to the Florida Condominium Act (Title XLX, Chapter 718, of the Florida Statutes), then the condominium as a whole shall be considered a Parcel for purposes of this Declaration, with the condominium association with respect thereto having the liabilities, obligations and responsibilities of an Owner hereunder with respect to such Parcel. As of the date hereof, Master Developer has designated and hereby designates only two (2) Parcels within the Site, being the Park Parcel and the Phase I Parcel, each of which may be altered, subdivided or combined hereafter in accordance with the foregoing provisions. While Master Developer may elect to record a Declaration Supplement with respect to the Park Parcel and/or the Phase I Parcel, no Declaration Supplement shall be required to establish same based upon Master Developer's designation of same as Parcels herein

1.1.25 **"Park Parcel"** shall mean that portion of the Site located as shown on Exhibit "C" attached hereto and by this reference made a part hereof and labeled thereon as "Park Parcel." In connection with initial development upon the Site and construction of Main Street, Master Developer intends to develop and construct a park area for the benefit of the public upon the Park Parcel in accordance with plans therefor Approved by the City. Upon completion of such construction, Master Developer may dedicate the Park Parcel to the City for use as a public park. Any such dedication by Master Developer is subject to approval and acceptance by the City in its sole and absolute discretion.

1.1.26 **"Permittee"** shall mean all Occupants and the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, subtenants, and concessionaires of Occupants insofar as their activities relate to the intended development, use and occupancy of the Project. Persons engaged in civic, public or political activities within the Project, including (but not limited to) Persons engaged in exhibiting any placard, sign, or notice, distributing any circular, handbill, placard, or booklet, soliciting memberships or contributions for private, civic, public or charitable purposes or parading, picketing, or demonstrating, shall not be considered Permittees; provided that the foregoing shall in no way prohibit use of any Community Use Space within the Project for the purposes for which such space is developed or other typical municipal uses not prohibited hereby.

1.1.27 **"Person"** shall mean any corporation, partnership, limited liability company, co-tenancy, joint venture, individual, business trust, real estate investment trust, trust, banking association, federal or state savings and loan institutions, or any other legal entity, whether or not a party hereto.

1.1.28 **"Phase I Parcel"** shall mean a portion of the Site configured generally as shown on Exhibit "C" attached hereto and by this reference made a part hereof, upon which Master Developer contemplates renovation and/or construction of Buildings for Retail Use in accordance with the further terms of this Declaration.

1.1.29 **"Prohibited Use"** shall mean any use within the Project that is prohibited by the terms of Article 5 hereof.

1.1.30 **"Requirement of a Governmental Authority"** shall mean and include any law, ordinance, order, requirement, rule, writ or regulation of a Governmental Authority, including, without limitation, Applicable Zoning.

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1.1.31 **"Residential Use"** shall mean use of multi-family dwelling units for lease or sale that are consistent with the caliber of the Project and having Occupants comparable to other rental or condominium tenants or owners in comparable mixed-use developments in the metropolitan Tampa, Florida area, and shall include ancillary recreational facilities and retail, food service and support uses incidental thereto.

1.1.32 **"Retail Use"** shall mean shall mean use of a Building on a Parcel for single tenant or multi-tenant occupancy for retail sales, retail service and retail office businesses (such as, for retail service, banks, dry-cleaning drop off/pick up facilities without on-site processing, shoe repair, hair and nail salons, copy, ship and packing services and the like and, for retail office, an office providing services directly to customers as a primary aspect of its business in the nature of travel agencies, stock brokerages, insurance agencies and real estate brokerages), including restaurant use and office and support uses incidental to primary retail uses, but specifically excluding Prohibited Uses, all of a caliber and with Occupants comparable to other similar mixed-use retail developments in the metropolitan Tampa, Florida area.

1.1.33 **"Site Plan"** shall mean the planned development site plan as approved by the City of Temple Terrace, as same may be amended from time to time in accordance with the terms of the MDA, with respect to the Site or any Parcel located within the Site. The Master Developer and the City acknowledge that the site plan attached hereto as **Exhibit "B"** is not the approved planned development site plan and as such not the "Site Plan" as same may be referred to throughout this document.

1.1.34 **"Surface Water Management System"** shall include, but not be limited to: all pipes and facilities in the transport of storm water, including (without limitation) inlets, ditches, swales, culverts, water control structures, retention and detention areas, vaults, ponds, lakes, wetlands and any associated buffer areas, and wetland mitigation areas located within the Site.

1.2 **Other Terms.** All terms used in this Declaration which are not defined in this Article 1 shall have the meanings set forth elsewhere in this Declaration.

1.3 **Recitals.** The recitals set forth hereinabove are incorporated herein as an integral part of this Declaration and are to be considered in any construction of this Declaration.

ARTICLE 2

PURPOSE OF DECLARATION; JOINDER BY THE CITY

2.1 **Purpose.** The purpose of this Declaration is to ensure the proper use and appropriate development and improvement of all real property that constitutes the Project so as to provide a harmonious development that will promote the general welfare of the Owners and Occupants of the Project and that will protect the present and future value of the Project and all parts thereof; to ensure the orderly and attractive development and use of the Project; to prevent the erection in or on the Project of any Improvements built of improper or unsuitable design and/or materials; to prevent any haphazard and inharmonious improvement of Buildings, Common Areas and other Improvements within the Project; to encourage the erection of attractive Improvements; to provide for the orderly and effective maintenance of the Project; to provide for the construction, installation and maintenance of certain Common Areas; and in

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general to preserve the architectural integrity, aesthetic appearance, and economic value of the Project and Improvements constructed thereon from time to time.

2.2 **Easements and Covenants Running With the Land.** This Declaration and all of the provisions hereof are and shall be easements and real covenants, as applicable, running with the Site which touch and concern the Site and which shall burden and bind the Site and each Parcel thereof, and each and every Owner and Occupant thereof or of any Parcel or Parcels thereof, for the duration hereof. To that end, this Declaration shall be deemed automatically incorporated into all deeds, conveyances, leases and like agreements hereinafter entered into with regard to the Project or any Parcel therein (including, without limitation, any Project Documentation), regardless of whether specific reference is or is not made to this Declaration in any such instrument of conveyance, lease or other like document respecting ownership, development, management and/or operation of the Project or any Parcel thereof. Every Person that acquires or holds any interest, estate or rights in or to any Parcel of the Project (including, without limitation, any Mortgagee and any other Owner or Occupant), shall take or hold such interest, estate or right, or the security interest with respect thereto, with notice of the terms and provisions of this Declaration; and in accepting such interest, estate or right in and to such Parcel, or a security interest therein, such Person shall be deemed to have assented to this Declaration and all of the terms and provisions hereof so as to agree to be bound by same while such Person is an Owner or Occupant of the Parcel at issue.

2.3 **Joinder by the City.** By its execution of this Declaration, the City hereby acknowledges and agrees that the Site is and shall be hereafter owned, held, developed, transferred, sold, conveyed, leased, subleased, maintained, managed, occupied and mortgaged or otherwise encumbered subject to the protective covenants, conditions, restrictions, easements and equitable servitudes set forth in this Declaration. Without limitation, the City by its joinder in the execution of this Declaration agrees that any and all remaining rights in and to the Property owned or held by the City by virtue of the MDA (including, without limitation, any and all rights to reacquire any or all of the Site) are and shall be subject and subordinate to the terms of this Declaration such that, again without limitation, any portion of the Site that may be hereafter reacquired by the City in accordance with the provisions of the MDA shall be reacquired, owned and held by the City, and its successors, successors-in-title and assigns, subject to this Declaration and the covenants, agreements, restrictions, rights and easements intended and established hereby.

ARTICLE 3 **ESTABLISHMENT OF EASEMENTS**

3.1 **Access and Parking Easements.** Subject to the provisions of Section 3.2 below, Master Developer does hereby grant, declare and establish, for the benefit of each Parcel, a non-exclusive easement and right to the use, during the term of this Declaration, the Common Areas located on each other Parcel for purposes of ingress, egress, passage and delivery by vehicles and pedestrians and including parking, where such is the intended use of such Common Areas and not inconsistent with use and enjoyment of the Parcel owned by the servient Owner. The foregoing grant, declaration and establishment of easements to the contrary notwithstanding, each Owner shall have the right to (and, upon request of Master Developer, will) close off any portion of the Common Areas located on its Parcel at such intervals and for such minimum period of time as may be legally necessary, in the opinion of such Owner's counsel or Master

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Developer's counsel, to prevent the acquisition of prescriptive rights by any other Person or the dedication of same to the public; provided, however, that any such closing shall occur at a time or on a day when the Parcels are not open for business, if possible, and in any case shall be done so as to interfere as little as reasonably possible with the normal business of the Project and business operations and residential uses being conducted on each of the Parcels thereof.

3.2 Designated Restricted Areas. Notwithstanding the provisions of Section 3.1 above, it is expressly understood and agreed that, in connection with designation and/or development of any Parcel, Master Developer may designate, or Approve designation by the Owner of such Parcel of, an area or areas within the Common Areas upon such Parcel that may be restricted by the Owner thereof from time to time so as to make any such area so designated or Approved (a "**Designated Restricted Area**") an access-controlled area or other area of reserved parking for the benefit of the Parcel at issue or some portion thereof. Any such designation shall be reflected in the Declaration Supplement recorded to establish the Parcel at issue; provided that Master Developer may also designate or Approve designation of a Designated Restricted Area on a Parcel sooner established in accordance with the provisions hereof by recording another Declaration Supplement with respect to such Parcel reflecting the Designated Restricted Area or Designated Restricted Areas so designated or Approved upon such Parcel. Following designation of a Designated Restricted Area, the Owner thereof shall have the right, at its option and from time to time, to make any such Designated Restricted Area "access controlled" or otherwise "reserved" for the exclusive use of the Owner of the Parcel at issue or Occupants or Permittees thereof, as determined by the Owner of the Parcel. At any time a Designated Restricted Area is so access controlled or reserved by the Owner, such Designated Restricted Area shall not be considered a Common Area hereunder, and no other Parcel, nor the Owners, Occupants or Permittees of the other Parcels, shall be entitled to any easement rights to access and/or parking on, over, across or through the Designated Restricted Area. Notwithstanding the foregoing, (i) Master Developer may not designate any portion of any Parcel a Designated Restricted Area if doing so would either (a) cause any Parcel not to comply with any applicable Requirement of a Governmental Authority with respect to access or parking, or (b) interfere with free and unobstructed access by Owners, Occupants and Permittees of all Parcels over, upon, through and across Main Street. In addition, with respect to any Designated Restricted Area, Master Developer has and shall have no obligation to police, enforce or otherwise assure the restricted or reserved nature of access and/or parking thereupon, and the Owner of the Parcel containing any such Designated Restricted Area shall be responsible at no cost to Master Developer for any such policing or enforcement, all of which shall be performed in accordance with all applicable Requirements of a Governmental Authority.

3.3 Utility Easements.

3.3.1 Master Developer does hereby grant, declare and establish for the benefit of all Parcels an easement in, to, over, under and across the Common Areas of each Parcel (expressly excluding therefrom the areas of any loading docks, truck wells and similar service facilities serving any Building Improvements thereon) or any Designated Restricted Area upon a Parcel, in either case for the purpose of installation, operation, use, inspection, maintenance, repair, replacement, removal and relocation of the Surface Water Management Systems, and sanitary sewer pipes and lines, water and gas mains, electric power lines, cable lines, telephone lines, and other underground utility lines (collectively, "**Utility Lines**"), and in each case to serve the facilities located on the Parcels or any portion thereof. The initial location of any Utility Lines to be installed upon a Parcel shall be determined by Master Developer or otherwise

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Approved by Master Developer in connection with initial development of the Project or subsequent construction upon any individual Parcel. After initial construction upon any Parcel, however, the location of any additional Utility Lines to be installed upon such Parcel shall be subject to the Approval of Master Developer and to the Approval of the Owner of the burdened Parcel, which Approval shall not be unreasonably withheld or delayed (it being understood that such Owner may consider aesthetics in granting or withholding such Approval, and that such Owner may never be required to Approve installation of a Utility Line over, across or through any of its Parcel that is not a Common Area. Likewise, if the Owner of any Parcel desires to relocate any Utility Lines on such Owner's Parcel, and if such Utility Lines so to be relocated benefit any other Parcel within the Project, relocation of same shall be subject to the requirement that the Owner wishing to relocate shall have obtained, prior to commencement of any relocation, Approval of the plans and specifications (including schedule) for relocation from the Owner of any Parcel benefited by the Utility Lines in question (such Approval not to be unreasonably withheld, delayed or conditioned) and from Master Developer.

3.3.2 All Utility Lines (including related installations) shall be underground, except for fire hydrants, manholes, transformers, junction boxes, meters and other similar items that are customarily located above ground in mixed-use developments comparable to the Project, the locations of which shall have been approved by Master Developer in accordance with the provisions hereof.

3.4 Signage Easements.

3.4.1 Master Developer reserves the right, and shall have the right, hereafter to grant, declare and establish perpetual easements for erection, construction, installation, operation, use, lighting, maintenance, repair and replacement of multi-panel signs (the "**Project Signs**" or, individually, a "**Project Sign**") for the Project on one or more Parcels. Master Developer shall establish the easement area for any such Project Sign (the "**Project Sign Easement Area**") by designation and description of the location of such Project Sign Easement Area in the Declaration Supplement recorded in connection with designation of the Parcel on which the Project Sign Easement Area is located or by virtue of the provisions of Section 3.4.4 below; provided that Master Developer shall further have the right, at its option and prior to designation of a Parcel within which same will be located, to establish a Project Sign Easement Area (whether one or more) within the Site at any location owned by Master Developer by execution and recordation of a Declaration Supplement that will be recorded for the sole purpose of designating such Project Sign Easement Area and establishing easements with respect thereto as contemplated herein. Each easement for a Project Sign shall be deemed to include as well non-exclusive easements over the Common Area of the Parcel on which the Project Sign Easement Area is located as reasonably necessary for installation, use, maintenance, repair and replacement of underground utilities necessary for lighting and operation of the Project Sign at issue, which additional easements shall be at locations reasonably designated by Master Developer. If and when Master Developer designates any portion of the Site as a Project Sign Easement Area in accordance with the foregoing, such Project Sign Easement Area shall, upon recordation of the Declaration Supplement with respect thereto (or, by virtue of Section 3.4.4, by virtue of recordation of this Declaration), be subject to easements granted, declared and established in accordance with the further provisions of this Section 3.4. The Project Signs shall be constructed in accordance with a design determined or Approved by Master Developer and will allow for installation of individual panels thereon as reflected in the Approved design. Master Developer, in determining final Parcel configurations with respect to the Parcels in the

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Project as contemplated by Section 1.1.17 above (or, as for Parcels sooner created, at any time thereafter upon designation of a Project Sign Easement Area), shall designate the panel area(s) (if any) on any Project Sign that will be allocated to each Parcel (or reserved for future Parcels) for purposes of this Declaration, and the allocation of Project Sign panel space for each such Parcel shall be set forth by virtue of Section 3.4.4 below or in the Declaration Supplement recorded with respect to the Parcel(s) at issue and this Declaration as contemplated by Section 1.1.17 above (or a separate Declaration Supplement recorded for purposes of setting forth the panel space allocations). Unless Master Developer elects to perform such construction (in which case the construction reimbursement contemplated below shall be paid to Master Developer), the Owner of the Parcel on which each such Project Sign is to be located shall be responsible for construction and installation of such Project Sign and, after initial installation of the Project Sign, such Owner shall be entitled to be reimbursed, following invoice accompanied by reasonably adequate supporting documentation, for a share of the costs of construction and installation of such Project Sign structure by the Owner of each Parcel entitled to panel representation thereon, such share to be determined based on the square footage of such Owner's panel(s), relative to the total square footage of all panels on the sign (exclusive of panels identifying the Project as a whole). The amount owed shall be paid on or before the earlier of (i) installation of the panel(s) at issue or (ii) the date upon which a certificate of occupancy (temporary or permanent) is issued for a Building constructed upon the Parcel entitled to such panel space, and no panel may be installed until such reimbursement is made. Master Developer or, following the Turnover Date, the Association shall be responsible for lighting, maintaining, repairing and replacing (as necessary) the Project Sign structure on any Parcel (exclusive of Owners' panels thereon, which shall be the responsibility of the Owner represented thereon to maintain, repair and replace), but Master Developer (or the Association, as applicable) shall be entitled to reimbursement, as Special Assessments, by each Owner represented on the Project Sign it maintains for the reimbursing Owner's share of the costs of lighting, maintaining, repairing and, if necessary, replacing the Project Sign structure, determined in the manner set forth above. All reimbursements to be made for the costs of lighting, maintaining and repairing the Project Signs in accordance with the foregoing shall be made within thirty (30) days following receipt by the Owner obligated to pay same of a detailed itemization of the expenses incurred by Master Developer (or the Association, as applicable) accompanied by reasonably adequate supporting documentation with respect thereto. Each Owner entitled to panel representation on a Project Sign shall control which Occupants of such Owner's Parcel are entitled to use of such Owner's panel areas, but Master Developer or, following the Turnover Date, the Association shall, except for the standard logo of a nationally or regionally-recognized tenant, be entitled to approve the color, copy and other aesthetic considerations of any such panels, such Approval not to be unreasonably withheld, delayed or conditioned.

3.4.2 Each Owner having signage rights on another Parcel in accordance with the foregoing provisions shall have reasonable access over and across such other Parcel for purposes of installing, maintaining, repairing and/or replacing its panels on the Sign.

3.4.3 Installation of all exterior signage upon the Project shall be subject to Approval of same by Master Developer in advance of installation pursuant to the further provisions of Article 4 below, shall likewise be subject to receipt of all necessary permits and approvals from any applicable Governmental Authority, and shall be consistent with the Site Plan.

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3.4.4 In furtherance of the provisions of Section 3.4.1 above, Master Developer does hereby grant, declare and establish a perpetual easement for erection, construction, installation, operation, use, lighting, maintenance, repair and replacement of a Project Sign upon the portion of the Phase I Parcel more particularly shown and described on Exhibit "D" attached hereto and by this reference made a part hereof (the "**Phase I Project Sign Easement Area**"), together with non-exclusive easements over the Common Area of the Phase I Parcel as reasonably necessary for installation, use, maintenance, repair and replacement of underground utilities necessary for lighting and operation of the Phase I Project Sign, which additional easements shall be at locations reasonably designated by Master Developer. Panel area on such Project Sign (the "**Phase I Project Sign**") shall be allocated to the Phase I Parcel as reflected on Exhibit "E" attached hereto and by this reference made a part hereof, with the balance of the panel area on such Phase I Project Sign being reserved for use by other Phases in the Project, as designated by Master Developer in accordance with the provisions of Section 3.4.1 hereinabove.

3.5 **Temporary Construction Easements.** In connection with any construction work to be performed in the development of the Parcels, Master Developer does hereby grant, declare and establish temporary easements for the benefit of the Owner of each Parcel upon which such development and construction is occurring for incidental encroachments upon the other Parcels which may occur as a result of construction, so long as (i) such encroachments are kept within the reasonable requirements of construction work expeditiously pursued (and completed in the minimum amount of time reasonably possible), (ii) customary and reasonably satisfactory insurance is maintained (with evidence of same provided upon request and in advance of entry) protecting the Owner of the Parcel encroached upon from the risks involved in such construction work, (iii) reasonable advance written notice (except in case of emergency) is afforded the Owner of the servient Parcel in advance of exercise of easement rights hereunder. Any burdened Owner shall be entitled, except in cases of emergency, to require rescheduling of the construction giving rise to use of easement rights hereunder, if encroachment will unreasonably disturb use and enjoyment by the burdened Owner of its Parcel. Each benefited Owner shall indemnify and hold the burdened Owner and any Occupant of the burdened Owner's Parcel harmless from any claims, damage or loss which may result from the exercise of the benefited Owner's rights under this Section 3.5. All work performed pursuant to this Section 3.5 shall be subject in all events to Section 5.5 below.

3.6 **Benefit of Easements.** The easements granted, declared and established in this Declaration shall run with title to the intended Parcels and shall be for the benefit of, but not restricted solely to, the Owner of each intended Parcel. Each such Owner may grant and afford the benefit of such easement to the tenants and other Occupants of its Parcel (including customers, employees, agents and business invitees) for the duration of the occupancy of such other parties; provided, however, that this provision is not intended, nor shall it be construed, as creating any rights in or for the benefit of the general public, nor shall it affect or benefit any real property outside of the Project. The easements established by this Declaration shall be perpetual, except as may be expressly provided herein to the contrary.

3.7 **Restrictions.** The easements granted, declared and established by this Article 3 shall be further subject to the covenants and restrictions set forth in Articles 5 and 6 below.

ARTICLE 4 **PLAN APPROVAL**

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4.1 Plan Approval Requirement. In order to (i) establish and maintain orderly and attractive development and use of the Project, (ii) prevent the erection in or on the Project of any Improvements built of improper or unsuitable design and/or materials, (iii) prevent any haphazard and inharmonious improvement of Buildings, Common Areas and other Improvements within the Project and (iv) encourage the erection of attractive Improvements, no Building or other site Improvements (including, without limitation, alterations thereof) may be initiated or constructed on any Parcel unless the plans and specifications therefor have been Approved in writing by Master Developer in advance of construction and are consistent with the Site Plan. Notwithstanding the foregoing, Approval by Master Developer shall not be required for construction or alterations within a Building so long as (i) all such work takes place completely within a Building, (ii) such work is performed in connection with a permitted use of the Parcel at issue pursuant to the terms of this Declaration, (iii) such work does not change or affect the exterior appearance or alter the structural integrity of the Building affected thereby, (iv) such work is not visible from the exterior of the Building and (v) such work does not create demand for extraordinary services or utilities beyond the design capacities for the Parcel and Building at issue. Where its Approval is required, Master Developer shall have the sole discretion to determine whether plans and specifications submitted for its Approval are acceptable to Master Developer, and Master Developer shall be entitled and empowered, in accordance with the further provisions of this Declaration, to enjoin or remove any construction undertaken pursuant to plans and specifications that have not been Approved by Master Developer where such Approval is required hereunder.

4.2 Procedure for Approval. At least sixty (60) days in advance of the proposed date of commencement of construction, any Owner proposing to construct or modify Improvements on its Parcel (except where expressly exempt from these approval requirements) shall submit plans and specifications for the proposed Improvements to Master Developer, and construction of such Improvements shall not be commenced unless and until such plans and specifications have been Approved by Master Developer in accordance with the provisions hereof. The scope of Master Developer's approval rights with regard to construction of Improvements upon a Parcel shall include (without limitation) approval of an overall site plan and of plans and specifications for elevations, landscaping, lighting, signs, utilities, curbing and guttering and all other aspects of design, including (also without limitation) civil drawings, architectural plans and specifications, building material specifications and exterior color schemes. Among other things, the plans submitted shall designate any area upon the Parcel at issue that the Owner desires to have designated a Designated Restricted Area, to the extent not sooner designated by Master Developer. Without limitation, Master Developer shall be entitled to request submission of samples of proposed construction materials. Plans and specifications submitted for Approval hereunder shall be prepared in compliance with any applicable Requirement of a Governmental Authority (including, without limitation, the Applicable Zoning), and must be prepared under the personal direction of an architect, professional engineer, and/or land surveyor (as appropriate in the context) and must bear the seal, signature, and certification of such architect, professional engineer and/or land surveyor. If Master Developer disapproves any plans and specifications submitted to it in accordance with the provisions hereof, Master Developer will set forth a reasonably detailed explanation of the basis for such disapproval. Once plans and specifications have been Approved by Master Developer pursuant to the provisions hereof, no material modifications to the Approved plans and specifications may be made by the submitting Owner without obtaining Master Developer's Approval of the proposed modifications.

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4.3 Governmental Approvals. Any plans and specifications Approved by Master Developer in accordance with the provisions hereof shall be and remain subject also to receipt of all required building permits and other governmental approvals and permits necessary to permit construction and development in accordance therewith, but no Owner shall submit any plans and specifications to any Governmental Authority for approval or permits until after such plans and specifications have been Approved by Master Developer in accordance with the provisions hereof. Plans and specifications submitted to Governmental Authorities as permitted hereby may be subject to revision based upon comments received from Governmental Authorities, but any such revisions shall be and remain subject to Master Developer's approval in accordance with the provisions hereof.

4.4 Limitation on Liability. Neither Master Developer nor any member thereof or consultant thereto or any member, shareholder, director, officer, agent or employee of any of same shall be liable to any Owner or Occupant or to any other Person for any loss, damage or injury, or claim thereof, arising out of or in any way connected with Master Developer's Approval rights under this Article 4 unless due to the willful misconduct, gross negligence or bad faith of Master Developer or any member thereof or consultant thereto or the members, shareholders, directors, officers, agents or employees of any of same, as the case may be, it being understood that there shall be no liability in damages or otherwise for any mistake in judgment, negligence or nonfeasance arising out of or in connection with Approval or disapproval or failure to Approve or disapprove any plans and specifications submitted pursuant to this Article 4. Further, and without limiting the foregoing, no Approval shall be considered an Approval of the plans and specifications submitted from an engineering, structural design or governmental permitting perspective or any determination or assurance that the plans and specifications submitted meet building, engineering or engineering design codes and standards. Further, any Approval by Master Developer of any plans and specifications submitted in accordance with the provisions hereof means only that Master Developer finds same unobjectionable, and such Approval, however expressed, shall not imply or be deemed to express any opinion, representation, warranty or other assurance from Master Developer that the plans and/or specifications submitted, or the resultant Buildings or other Improvements, are or will be safe or suitable for any particular purposes or have or will have any particular value. In addition, Approval of any plans with regard to a Parcel (i) shall not be deemed a waiver of Master Developer's right, in its discretion, to disapprove similar plans, or any of the features or elements included therein, submitted for any other Parcel, and (ii) shall be final as to the Parcel for which they have been submitted, provided that the Improvements on such Parcel are constructed and maintained in substantial conformity with the Approved plans.

4.5 Termination of Approval Rights. Master Developer shall have Approval rights with respect to plans and specifications for Improvements or modifications thereof pursuant to this Article 4 for so long as Master Developer or any affiliate of Master Developer or any of its principals owns any real property within the Site (the "**Turnover Date**"). At such time as neither Master Developer nor any affiliate of Master Developer or any of its principals shall own any real property within the Site, Master Developer shall have no further rights of Approval under this Article 4 (or any other provision of this Declaration) and, at such time (but only at such time), any such provisions of this Declaration requiring Approval by Master Developer shall be deemed removed from the provisions of this Declaration.

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ARTICLE 5

RESTRICTIONS AND REQUIREMENTS REGARDING USE AND OPERATION

5.1 **Restrictions on Parcels.** The Project and each of the Parcels thereof established in accordance with the provisions hereof are declared to be and shall be subject to covenants, restrictions and obligations set forth in this Article, all of which shall be binding on each Owner of the Parcel at issue and each of its Occupants and their respective employees, agents and invitees.

5.2 **Permitted Uses.** The Project shall be used only for Residential Use, Retail Use and Office Use as permitted by the Applicable Zoning, subject to the provisions of Sections 5.3 and 5.4 below.

5.3 **Prohibited Uses.**

5.3.1 Without expanding by implication the permitted uses that may be made of the Parcels as set forth in Section 5.2 above (and subject to the rights of any Occupants under leases in effect as of the date of this Declaration), it is expressly declared that no portion of the Project or any Parcel thereof shall be used as or for any of the following ("**Prohibited Uses**"), unless Master Developer has Approved any such use in writing in advance of such use and which the City has consented to such use, which consent shall not be unreasonably withheld: (a) any industrial uses (including, without limitation, any manufacturing, mining, smelting, rendering, brewing, refining or chemical processing operation, but not to preclude restaurant operations with a so-called "micro brewery"); (b) any flea market, pawn shop or tattoo parlor; (c) any trailer court, mobile home park, labor camp, junk yard, stock yard or other use that involves the keeping of any animals or poultry (other than in connection with pet supply stores or licensed veterinarians, and not to preclude pet ownership by any Owner or Occupant within any portion of the Project used for Residential Use); (d) any facility for the sale or lease of motor vehicles, trailers or mobile homes; (e) any dumping, disposal, incineration, gathering for recycling or reduction of garbage or refuse (other than handling or reducing such waste produced on a Parcel from otherwise authorized uses and, in such later event, only if handled in a reasonably clean and sanitary manner); (f) funeral home, mortuary or similar service; (g) any massage parlor (not to preclude day spas, medical or therapeutic or other establishments offering massages of a caliber consistent with the Project and commonly found in comparable mixed-use developments in the metropolitan Tampa, Florida area) or other so-called "adult business" selling, displaying or exhibiting x-rated, lewd or pornographic materials (excepting materials typically displayed in family video stores, bookstores, news stands and supermarkets, and not to preclude ownership and/or private display of any materials by an Owner or Occupant within any portion of the Project used for Residential Use, so long as in compliance with all governmental laws, codes, ordinances and regulations); (h) any gambling facility or operation, including (but not limited to) off-track or sports betting parlor (provided that the foregoing shall not preclude governmental sponsored gambling activities, or charitable gambling activities, so long as such governmental and/or charitable activities are incidental to the business operation being conducted by the Occupant, nor shall the foregoing preclude any legal recreational uses of Occupants within any portion of the Project being used for Residential Use); or (i) any facility for the sale of paraphernalia for use with illicit drugs.

5.3.2 Certain portions of the Site will or may be developed in accordance with the provisions of the MDA for conveyance to and use by the City for community and civic

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purposes. To the extent any portion of the Site is hereafter conveyed to the City in accordance with the provisions of the MDA, any and all portions of the Site so conveyed to the City (the "**Community Use Space**") may, notwithstanding any contrary provision hereof, be used for municipal office and community uses (which may include, without limitation, administrative offices, a "Center for the Arts", a library and/or other office and community uses); provided that no portion of the Community Use Space may be used for the following purposes (regardless of whether otherwise considered municipal office or community uses): (i) fire or like public protection stations or facilities (subject to the following sentence, and not to prohibit customary on-site fire-protection installations and equipment, such as sprinkler system, fire extinguishers and fire alarms), (ii) jail or other incarceration facilities, (iii) welfare or unemployment offices or (iv) health clinics or other medical facilities. Notwithstanding the foregoing, a police substation shall be a permitted use in the Community Use Space, provided and so long as there are no holding cells or like facilities contained therein. The City, by its joinder in the execution of this Declaration, expressly acknowledges the foregoing provisions and agrees that the Community Use Space will be subject to same upon conveyance to the City.

5.4 **Additional Restrictions.** In addition to the Prohibited Uses set forth in Section 5.3 above, for so long as a certain Amended and Restated Lease Agreement dated April 23, 2010, between Master Developer and Kash N' Karry Food Stores, Inc. (the "**Sweetbay Lease**") is in effect (including any renewals or extensions thereof), or until earlier termination of any such restriction pursuant to the terms of the Sweetbay Lease, no portion of the Project (other than premises leased pursuant to the Sweetbay Lease) may be used for the following uses, unless otherwise permitted by the terms of the Sweetbay Lease: (a) for the operation of a supermarket, grocery store, natural or health foods store, warehouse food store, combination store or convenience food store; (b) for the operation of a bakery, delicatessen, meat market or specialty foods store (other than in connection with a restaurants such as Panera Bread,, Atlanta Bread, Jason's Deli, etc. which offer on-site dining); (c) for the sale of package liquors for off-premises consumption (other than a wine specialty store such as The Grape or Cork & Olive); (d) for the operation of a drugstore or pharmacy (for the purposes hereof, a "**pharmacy**" shall mean any store, or department or counter within a store, which sells prescription medicines or drugs or any items requiring the presence of a registered pharmacist); (e) for the operation of a so-called "dollar store" or store primarily engaged in the sale of merchandise that is promoted for sale and priced at one dollar or at fixed amounts, including, without limitation, Family Dollar, Dollar General and/or Dollar Tree stores (subject to the rights of pre-existing users as noted below); or (f) for any combination of the foregoing. Notwithstanding the foregoing, nothing in this Section 5.4 will preclude use of premises within the Project for any of the following uses: (i) one ice cream or yogurt store, one candy store, and one bagel shop, provided that no such store shall exceed 1,200 square feet of gross floor area; or (ii) any full-service restaurant, including "take-out" restaurants selling food ready and intended for immediate consumption (such as a hamburger restaurant, deli-style sub and sandwich shop, pizza shop, coffee & donut shop, and so forth); provided that no such restaurant shall sell so-called prepared meals or other food items which are not ready or intended for immediate consumption (for example, meals or entrees intended to be taken home and heated or further prepared prior to consumption).

5.5 **Construction.** All construction on the Parcels shall be conducted in a manner which will limit, to the maximum extent reasonably practicable, minimize any unreasonable interference with use and enjoyment of any other Parcel or the easements established hereby. Any Person performing any work on the Parcel of another Owner shall, except in the event of an emergency, perform such work only after not less than five (5) business days written notice to

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the Owner of the affected Parcel, and shall, at its cost and expense, promptly repair any damage caused by such work (including, without limitation, any damage to any pavement, landscaping or other Improvements) to a condition as good as or better than the condition that existed immediately prior to the commencement of such work, subject to the provisions hereof concerning reimbursement, if the performing Owner is doing so by virtue of exercise of self-help remedies hereunder.

5.6 **Zoning.** Without the Approval of Master Developer, no Owner or Occupant shall file with any Governmental Authority having jurisdiction over the Site or any part or Parcel thereof any application or petition for zoning, rezoning, special use permit, or zoning variance, any subdivision plan, plat or application, any request for annexation, or any similar filing affecting the use of any Parcel.

5.7 **Common Area Lighting.** The Association shall keep the Common Areas illuminated and each Owner shall keep the exterior lighting on each Building on its Parcel illuminated from dusk until at least 11:00 p.m. on Monday through Saturday and from dusk until at least 9:00 p.m. on Sunday ("**Normal Lighting Hours**"); provided that any Owner of a Parcel may require the exterior lights on any other Parcel to be kept lighted after Normal Lighting Hours, if the requesting Owner reimburses the requested Owner or Association, as applicable, for the additional costs incurred with respect thereto, which costs shall be shared on a pro rata square footage basis with any other occupant which remains open during such additional hours. Notwithstanding the foregoing, Master Developer (or, after the Turnover Date, the Association) shall be responsible to keep Main Street illuminated from dusk until dawn each and every day, with the Owners to participate in the cost thereof by payment of Assessments in accordance with the provisions of this Declaration. Any facilities and fixtures to be used in the lighting of Main Street and other Common Areas shall be constructed in accordance with specifications established by Master Developer in connection with initial construction on the Site or as otherwise Approved by Master Developer; provided that all lighting of Main Street must be maintained by Master Developer (or, after Turnover Date, the Association) consistently with lighting thereof initially installed by Master Developer. All exterior lighting facilities and fixtures on the Site shall be designed and installed so that the facilities and fixtures on each Parcel will be metered to the Owner of such Parcel.

5.8 **No Obstructions.** Subject to the provisions of this Declaration respecting Designated Restricted Areas, and except as reasonably required for maintenance and repair, no obstruction to the free flow of traffic and use of the driveways, accessways, parking fields, delivery facilities and other Common Areas on the Parcels shall be permitted. Any Owner performing maintenance and repair shall do so in a manner that will, to the extent reasonably possible, avoid or minimize interference with access to and from or use of any other Parcel. No Owner, Occupant or Permittee shall be charged for use of the Common Areas intended to be used by such party or parties in accordance with the provisions of this Declaration.

5.9 **Signs.** No signs shall be erected on the roof of any Building on a Parcel, nor shall any other exterior advertisement, sign or billboard be permitted on any part of a Parcel, as may be expressly permitted by Master Developer and subject to receipt of all required building permits and other government approvals.

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5.10 **Undeveloped Land.** Unless or until improved or being improved with Buildings or other Common Area Improvements, any portion of the Site shall be maintained in a reasonable manner consistent with the character and quality of the Project.

5.11 **Screening of Service Facilities.** Decorative screening or landscaping shall be installed to obscure from public view all trash rooms, trash holding receptacles, loading or service areas, mechanical or electrical equipment, storage facilities or bins, and other unsightly building appurtenances, and shall be reflected in the plans Approved by Master Developer. Appropriate screening shall be provided to obscure any roof-mounted equipment and appurtenances, roof vents, and similar items from public view from adjoining thoroughfares and shall be reflected in the plans Approved by Master Developer.

5.12 **Hazardous Materials.** No Owner shall use, or permit the use of Hazardous Materials on, about, under or in its Parcel or the Site, except in the ordinary course of its usual business operations conducted thereon, and any such use in the ordinary course of business shall at all times be in compliance with all Environmental Laws. Each Owner shall defend, protect, indemnify and hold harmless each other Owner and its Occupants from and against all claims or demands, including any action or proceeding brought thereon, and all costs, losses, expenses and liabilities of any kind relating thereto, including (but not limited to) costs of investigation, remedial response, and reasonable attorneys' fees and cost of suit, arising out of or resulting from any Hazardous Material used or permitted to be used by such Owner or its Occupants, whether or not in the ordinary course of business; provided however, the foregoing obligation shall not apply to claims caused by the negligence or willful misconduct of the Owner seeking such indemnification, its Occupants, licensees, concessionaires, agents, servants or employees, or the agents, servants or employees of any Occupant, licensee or concessionaire thereof. For the purpose of this Section 5.12, the term (i) "**Hazardous Materials**" shall mean: petroleum products, asbestos, polychlorinated biphenyls, radioactive materials and all other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law, and (ii) "**Environmental Laws**" shall mean: all federal, state, county, municipal, local and other statutes, laws, ordinances and regulations which relate to or deal with human health or the environment, all as may be amended from time to time.

5.13 **Prohibited Uses in Common Areas.** No merchandise, equipment or services, including (but not limited to) vending machines, promotional devices and similar items, shall be displayed, offered for sale or lease, or stored within the Common Areas, except as may be expressly permitted by Master Developer and permitted by each and every Requirement of a Governmental Authority applicable to the Parcel at issue.

5.14 **No Operating Covenant.** While nothing herein contained shall be in derogation of any independent covenants an Owner or Occupant may have to a Governmental Authority or any other Person by virtue of separate agreement, this Declaration is not intended to, and does not, create or impose any obligation on any Owner or its Occupants to operate, continuously operate, or cause to be operated a business or any particular business at the Project or on any Parcel thereof.

ARTICLE 6

REPAIR AND MAINTENANCE

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6.1 Maintenance and Repair.

6.1.1 Subject only to the provisions of Article 7 below with respect to the operation, maintenance, repair and replacement of the Common Facilities and Common Utility Lines, each Owner shall:

(i) keep any Building and other Improvements on its Parcel in good condition and repair or, where permitted in accordance with this Declaration, raze and remove such Building and/or Improvements so as to keep the Parcel at all times in a clean, safe and sightly manner;

(ii) place and maintain adequate exit and entrance signs, and other traffic control signs, to direct traffic into and out of the parking areas and driveways on its Parcel;

(iii) pay, prior to any penalty attaching thereto or any foreclosure being instituted with respect thereto, all real estate taxes respecting its Parcel (including, without limitation, any taxes or impositions in the nature thereof impressed by any special improvement district or like governmental or quasi-governmental district in which the Site may be located), as well as any and all assessments and personal property taxes and other impositions (including, without limitation, taxes, surcharges, assessments, water, sewer or similar rents, rates and charges, excises, levies, license fees, permit fees, inspection fees and other authorization fees), if any, imposed upon the land, Improvements and equipment located on its Parcel (collectively, "**Taxes**") (provided, however, that this provision shall not preclude any Owner from lawfully contesting the assessment or amount of any of such Taxes against or with respect to its Parcel); and

(iv) cause all Buildings and other Improvements located on its Parcel to comply with any applicable Requirement of a Governmental Authority; provided, however, that an Owner may contest any such Requirement of a Governmental Authority so long as such contest would not (A) create any material danger of loss of title or rights with respect the Parcel of such Owner or any other Owner within the Project, (B) impair in any way the use of any portion of the Common Areas for their intended purposes, or (C) jeopardize the ability of other Owners and/or Occupants of the Parcels to operate their respective businesses or residential uses on the Parcels.

6.1.2 Subject to the qualifications set forth in Section 3.1 above (including, without limitation, those pertaining to any Designated Restricted Area) and except as reasonably required for performance of maintenance and repairs (which shall be performed in a manner that will minimize obstruction of traffic), each Owner shall keep the driveways, roadways and parking areas on its Parcel open to the Occupants and Permittees of the Parcels seven (7) days a week at all times.

6.1.3 Subject only to the provisions of Article 7 below with respect to the operation, maintenance, repair and replacement of the Common Facilities and Common Utility Lines, each Owner shall service, maintain, repair and replace utility lines located on its Parcel and which service exclusively Buildings on such Parcel,. Except to the extent that such costs are Common Facilities Costs or Common Utility Costs to be addressed pursuant to Article 7 hereof, the Owner of each Parcel (or its Occupants) shall also be responsible for the cost of all utilities consumed by or upon such Parcel by such Owner or its Occupants or Permittees (except as is provided herein to the contrary with regard to lighting outside Normal Lighting Hours), but no

cost of same relative to any other Parcel.

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ARTICLE 7

MANAGEMENT; ASSESSMENTS

7.1 Management of Common Facilities and Common Utility Lines; Easements.

7.1.1 Common Facilities.

(i) Maintenance, repair, operation, lighting and insurance of Common Facilities to the standards otherwise required by this Declaration with respect to Common Areas (including, without limitation, maintenance of insurance) shall be performed by Master Developer or, following the Turnover Date, the Association (the party so to perform such maintenance and operation being herein sometimes referred to as the "**Operator**"), subject to reimbursement of the Common Facilities Costs through payment of Assessments in accordance with the further provisions of this Article 7. The Operator shall, at its expense but subject to reimbursement as set forth below, perform the operation, maintenance, repair and replacement of the Common Facilities so as to keep them all in good condition and repair and in compliance with the requirements of this Declaration (or shall cause such services to be performed by a third-party contractor, provided that no such delegation shall relieve the Operator of its duties and obligations hereunder).

(ii) Main Street, driveways and parking areas. The Operator shall be responsible for the maintenance and repair, including repaving, re-striping and replacing of markings on the surface of Main Street, and other parking areas and driveways within the boundaries of the Site from time to time, as and when necessary to provide for the orderly ingress, egress, passage and parking of automobiles and bicycles.

(iii) Common Areas. With respect to all improved portions of the Common Areas located within the boundaries of the Site, including the lighting thereon, the Operator shall (A) maintain, repair and replace same in the condition required by this Declaration, (B) keep such Common Areas clean and free from refuse and rubbish, and (C) mow and otherwise tend to the maintenance of any landscaped area within the boundaries of the Site, in each case so as to keep such areas at all times in a safe, sightly, good and functional condition consistent with the standards of comparable mixed use projects in the greater Tampa, Florida area; and (D) cause the Common Areas to comply with any applicable Requirement of a Governmental Authority; provided, however, that the Operator may contest any such Requirement of a Governmental Authority so long as such contest would not (x) create any material danger of loss of title or rights with respect to the Site or any Parcel within the Site; (y) impair in any way the use of any portion of the Common Areas for their intended purpose; or (z) jeopardize the ability of other Owners and/or Occupants of the Parcels to operate their respective business or residential uses on the Parcels.

7.1.2 Common Utility Lines. The Operator shall be responsible for the maintenance, operation, repair and replacement of Common Utility Lines, regardless of location within the Site, except to the extent such Common Utility Lines are maintained by the applicable utility provider, and except to the extent of lines servicing a single Parcel (which shall be maintained by the Owner of such Parcel). Without limiting the generality of the foregoing, it is

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agreed as follows with regard to Common Utility Lines:

(i) **Surface Water Management System.** The Operator shall be responsible for the maintenance and repair of the Surface Water Management System, including any landscaping and other improvement within such system, in accordance with regulations of any applicable Requirement of a Governmental Authority respecting same, including (without limitation) compliance with all requirements, rules and regulations of and permits issued by the South West Florida Water Management District ("SWFWMD") and timely delivery of any reports or certifications regarding the Site of any storm water facilities or management thereon required by SWFWMD. If appropriate, the Operator and all of the Owners shall cooperate as necessary in taking steps to be made by the "permittee" with respect to any storm water permits respecting the Site. On or before the Turnover Date, any and all storm water permits respecting the Site shall be transferred and assigned to, and assumed by, the Association.

(ii) **Lighting.** The Operator shall be responsible for providing lighting (exclusive of initial installation), and the maintenance, operation, repair and replacement associated therewith, in all Common Areas within the Site.

(iii) **Water and Sanitary Sewer Lines.** The Operator shall be responsible for the maintenance, operation, repair and replacement of the main water and sanitary sewer lines within the Site, except to the extent such utility lines service exclusively any Building on a Parcel.

(iv) **Fire Line Systems.** The Operator shall be responsible for the maintenance, operation, repair and replacement of all main fire line (including fire hydrants) systems regardless of location within the Site, but exclusive of systems servicing specifically a particular building on the Site.

7.1.3 Each Owner shall be responsible to pay its Proportionate Share (as defined herein) of the Common Facilities Costs and Common Utility Costs by virtue of payment of Assessments in accordance with the provisions of this Declaration. Subject to the further provisions of this Section 7.1, as used herein the term "**Proportionate Share**" for each Parcel shall mean (i) as regards the Phase I Parcel, all Common Facilities Costs and Common Utility Costs incurred by Master Developer (or, after the Turnover Date, the Association) with respect to the Phase I Parcel of the Project, and (ii) as regards the balance of the Project, an amount determined by multiplying the Common Facilities Costs and Common Utility Costs, exclusive of such costs incurred with respect to the Phase I Parcel, by a fraction, the numerator of which shall be the acreage of such Owner's Parcel, and the denominator of which shall be the aggregate acreage of all Parcels, exclusive as to both the numerator and denominator, as applicable, of the acreage of the Phase I Parcel (as regards the denominator) and the area of Main Street north of the Phase I Parcel and/or the Park Parcel to the extent otherwise contained within any such Parcel or Parcels.

7.2 **Obligation to Pay Assessments.** Each Owner of a Parcel shall be obligated to pay to Master Developer (or, after the Turnover Date, the Association) Assessments as provided by this Declaration, together with interest thereon at the Default Rate as provided herein if not paid when due, and such Assessments shall be fixed, established and collected from time to time as hereinafter provided.

7.3 **General Assessments.** From and after the date of conveyance of the first Parcel

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by Master Developer to a third party, the amount of all Common Facilities Costs and Common Utility Costs shall be assessed against each Parcel of the Project as follows (with the amounts determined to be owed being "**General Assessments**"). The General Assessment for each Parcel for a given year so assessed shall be the Proportionate Share of the Parcel at issue of the Common Facilities Costs and Common Utility Costs applicable thereto as projected by Operator. The annual General Assessment payable by each Owner shall be levied by the Master Developer or the Association (as applicable) after the same is determined in the manner set forth in this Section 7.3. At or before December 1 of each year, Master Developer or the Association, as applicable, shall prepare, adopt and submit in writing to the Owners a budget of the Common Facilities Costs and Common Utility Costs for the next succeeding calendar year to be paid by General Assessments collected from the Owners, together with notice of the amount of the annual General Assessment payable by each Owner during such year. If said budget proves inadequate for any reason, then Master Developer (or, as applicable, the Association) may levy at any time an additional General Assessment against the Owners and notify the Owners accordingly, and which additional Assessment shall be due not sooner than thirty (30) days following the date of the notice. If for any reason an annual budget is not adopted by Master Developer or the Association as required hereby, a payment in the amount required by the last prior General Assessment shall be due upon each General Assessment due date until changed by a new budget adopted in accordance with the provisions hereof. Each Owner shall be obligated to pay General Assessments to Master Developer or, after the Turnover Date, the Association not more frequently than monthly, as determined from time to time by Master Developer or the Association (as applicable) or in such other reasonable manner as Master Developer or the Association (as applicable) shall designate. In any year in which there is an excess of General Assessments over actual expenditures, Master Developer or the Association (as applicable) shall retain such excess and reduce the subsequent year's General Assessments accordingly.

7.4 Special Assessment Areas. Any payments owed by an Owner with respect to the Project Signs as herein provided shall be deemed a "**Special Assessment**" (or, collectively, "**Special Assessments**") for purposes hereof, payable in accordance with the provisions of Section 3.4 hereof.

7.5 Lien; Priority of Lien. All sums assessed against a Parcel as Assessments pursuant to this Declaration, together with court costs, reasonable attorneys' fees, late charges, and interest at the Default Rate as provided herein, shall be secured by an equitable charge and continuing lien on the Parcel or the rights in such Parcel of the Owner thereof in favor of the Person entitled to receive payment of the Assessments at issue. Such lien shall be superior to all other liens and encumbrances, excepting only: (i) liens of ad valorem taxes, and (ii) a lien for all sums unpaid on a first priority Mortgage, on any secondary purchase money Mortgage, or on any Mortgage to Master Developer recorded prior to the due date of the Assessments at issue, and all amounts advanced pursuant to any such Mortgage and secured thereby in accordance with the terms of such instrument; provided however, that the subordination of the lien for Assessments to the foregoing Mortgages shall apply only to Assessments that have become due and payable prior to a sale or transfer of the Parcel at issue pursuant to a Foreclosure. Such sale or transfer shall not relieve such Parcel from liability for any Assessments accruing after such sale or transfer. All Persons acquiring other Mortgages, liens or encumbrances on any Parcel after the effective date of this Declaration shall be deemed to have subordinated such Mortgages, liens or encumbrances to such future liens for Assessments as provided herein, whether or not such subordination shall be specifically set forth in such Mortgages or other instruments creating such liens or encumbrances.

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7.6 Nonpayment of Assessments; Lien Rights. Any Assessments or any portions thereof that are not paid when due shall be delinquent. Any Assessment delinquent for a period of more than ten (10) calendar days shall incur a late charge in an amount as may be determined by the Master Developer or Association (as applicable) from time to time (not to exceed five percent (5%) of the amount past due), and the Person entitled to receipt of such delinquent Assessment shall cause a notice of delinquency to be given to any Owner not paying within ten (10) days following the due date. If any installment of an Assessment has not been paid within thirty (30) calendar days of the due date therefor, the entire unpaid balance of the Assessment may be accelerated at the option of the Person entitled to receive such Assessment and, if so accelerated, shall thereupon become forthwith due and payable in full. The continuing lien and equitable charge of such Assessment shall include any late charge established in accordance with the foregoing, interest on the principal amount due at the Default Rate (which interest amount, calculated from the due date until paid, shall also be payable if a late charge is payable hereunder), all costs of collection (including reasonable attorneys' fees and court costs), and any other amounts provided or permitted hereunder or by law. If the Assessment remains unpaid after sixty (60) calendar days from the original due date, appropriate action may be taken to institute suit to collect such amounts and/or to foreclose such lien. The equitable charge and lien provided for in this Section shall be in favor of the Person entitled to payment of the Assessment at issue; and each Owner vests in such Person or its agents the right and power to sue or otherwise proceed against such Owner for the collection of such charges and/or to foreclose the liens existing with regard to the delinquent Assessments. The Person entitled to receipt of the Assessments at issue shall have the power to bid on the subject Parcel at any foreclosure sale and to acquire, hold, lease, mortgage, and convey the same.

7.7 Suit to Collect. In addition to the lien rights granted herein, any delinquent Assessment shall be a personal obligation of the Owner at the time such Assessment comes due of the Parcel at issue, and, upon any conveyance of the Parcel or rights therein subject to such lien, shall become the joint and several obligation of the conveying Owner as well as such Owner's successor-in-title or successor to development and management rights with regard to the Parcel at issue, whether or not expressly assumed by such successor.

7.8 Special Assessments for Damage. In addition to all other Assessments payable per the terms of this Declaration, Master Developer or, after the Turnover Date, the Association, as applicable, may at any time, in its reasonable discretion, levy, a special Assessment (also included in the terms "**Special Assessment**" and "**Special Assessments**" for purposes of this Declaration) against the Owner of any Parcel for the repair of any damage to any Common Facilities or Common Utility Lines (other than normal wear and tear), caused by the Owner of such Parcel or such Owner's Permittees. The notice of such Special Assessment under this Section 7.8 shall describe the nature of the damage and the necessary repairs, and any such Special Assessment shall be due and payable to the Person levying same on or before the tenth (10th) day following such Owner's receipt of such notice. Special Assessments under this Section 7.8 may be levied prior to the commencement of the repairs for which such Special Assessment is being levied; provided that upon receipt of payment of such Special Assessment the Person levying same shall promptly undertake to have such repairs made and shall refund to such Owner any excess of the amount assessed and paid over the cost of such repairs. In the event that the cost of such repairs exceeds the amount assessed and paid, the Person assessing the Special Assessment may again assess the Owner for such excess costs. By way of illustration and not limitation, the Special Assessments provided for in this Section 7.8 may be made for the

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purposes of repairing roadway damage caused by heavy trucks and construction vehicles during construction on a Parcel, or for excess siltation resulting from construction activity on a Parcel.

7.9 **No Discharge by Waiver of Use.** No Owner may exempt itself for personal liability for Assessments duly levied against such Owner's Parcel in accordance with the provisions of this Declaration, nor release the Parcel against which the Assessment is so levied from the liens and charges hereof, by non-use or waiver of use and enjoyment of the Common Facilities to which such Assessments pertain or by abandonment of its Parcel or any other property owned by such Owner within the Project.

7.10 **Easements in Favor of Operator, etc.** Operator, Master Developer (prior to the Turnover Date) and the Association (on and after the Turnover Date) shall have, and are hereby granted, easements over the Common Areas on all Parcels as may be reasonably necessary from time to time to allow Operator, Master Developer or the Association (as applicable) to exercise its rights and discharge its duties under and with regard to this Declaration.

ARTICLE 8 ASSOCIATION

8.1 **Formation and Organization of Association.** On or before the Turnover Date (or any earlier date designated by Master Developer in a notice to the Owners, which earlier date so designated will also be considered the "**Turnover Date**" hereunder), Master Developer shall at its expense form and organize the Association as a Florida not-for-profit corporation under the applicable laws of the State of Florida. The affairs of the Association shall be managed by the Board, and the number, term, election and qualification of the Board shall be established by the articles of incorporation and the bylaws of the Association. By resolution, the Board may, from time to time, delegate portions of its authority to an executive committee or other committees, to officers of the Association, or to agents and employees of the Association, but any such delegation of authority shall not relieve the Board of the ultimate responsibility for the management of the affairs of the Association. Action by or on behalf of the Association shall be governed by the articles of incorporation and the bylaws of the Association, and the Association shall have the duties, powers and rights set forth in the articles of incorporation and bylaws of the Association or otherwise afforded by the applicable laws of the State of Florida, and the rights and obligations of Master Developer intended to be transferred and conveyed to the Association under the terms of this Declaration.

8.2 **Membership in Association; Voting Rights.** Every Person who is an Owner shall be a Member ("**Member**") of the Association, and each Person becoming an Owner of a Parcel in the Project, by virtue of its acceptance of a deed or other transfer of rights as an Owner in and to such Parcel shall thereby be deemed to have consented to be a Member of the Association and to be bound by the articles of incorporation and bylaws thereof, and any rules and regulations promulgated with respect thereto, regardless of whether the Association is organized before or after such person becomes an Owner hereunder. There shall be one membership in the Association for each Parcel within the Site, exclusive of the Park Parcel. The Person or Persons who constitute(s) the Owner of a Parcel shall automatically be the holder of the membership in the Association appurtenant to that Parcel, and such membership shall automatically pass with fee simple title to the Parcel. Membership in the Association shall not be assignable separate and apart from such interest in a Parcel, except that any Owner may assign some or all of its rights as

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an Owner to any Occupant or Mortgagee, and may by written notice to the Association, arrange for any such party to perform some or all of Owner's obligations as provided in this Declaration, but no Owner shall be permitted to relieve itself of the responsibility for the fulfillment of all of the obligations of an Owner under this Declaration by virtue thereof. The Owner of each Parcel having a membership interest in the Association shall be entitled to one vote for each parcel of the Site owned by such Owner, plus a fractional vote for each fractional acre owned (to the nearest 100th) where such parcel is greater than one acre. The vote for any Parcel owned by more than one Person shall be exercised as determined amongst such Persons, but in no event shall the vote or votes with respect to any jointly-owned Parcel be cast separately or split. Decisions of the Association shall be by majority of votes cast at any meeting, except as otherwise provided hereinabove.

8.3 Duties and Powers of Association. When formed, the purpose of the Association shall be to maintain and operate the Common Facilities and Common Utility Lines as herein provided. The Association, acting through its Board or through Persons to whom the Board shall have delegated any authorized powers of the Board, shall have the duties and powers delegated thereto in accordance with the terms of the articles of incorporation and the bylaws of the Association, as the same may be amended from time to time, as well as all duties and powers established by applicable laws of the State of Florida and those other duties and powers as may be reasonably implied to effect the purposes of the Association.

8.4 Property Ownership; Transfer of Rights, Duties and Property to Association. The Association shall be authorized to hold title to property within the Site and may accept and retain title to those lands and properties designated as the Common Facilities within the Project. The Association shall succeed automatically to all of the duties and obligations of Master Developer under this Declaration from and after the Turnover Date and Master Developer shall on or about the Turnover Date (and after organization of the Association) transfer, assign and convey to the Association any and all Common Facilities owned by Master Developer (including, without limitation, the Park Parcel and all Improvements constructed thereon., if not sooner dedicated) The Association shall accept title to any property to be conveyed to it in accordance with the provisions hereof, together with the duty and obligation to perform all administrative functions associated therewith. Any property or interest transferred to the Association shall be unencumbered by any Mortgage and shall not impose any unreasonable burden on the Association other than the normal burdens of ownership. From and after the Turnover Date, Master Developer shall have no further obligations or liabilities under this Declaration and the Association shall be fully responsible for the performance of obligations under this Declaration pertaining to the Common Facilities. In furtherance of the foregoing, it is the express intent of this Declaration that, prior to the Turnover Date, any rights, actions or obligations contemplated by this Declaration and pertaining to the Association shall be deemed rights, actions or obligations of Master Developer.

8.5 Duty to Pay Taxes. The Association, in coordination with the Operator, shall pay or cause to be paid all ad valorem taxes and governmental assessments levied upon any real and personal property owned by the Association and all other taxes and assessments payable by the Association; provided, however, that the Association shall have the right to contest in good faith any such taxes or assessments and subject to recoupment of such costs through collection of Assessments in accordance with the provisions hereof. Unless and until Main Street shall be conveyed to the Association, the Owners of the Parcels upon which Main Street is located shall

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be responsible to pay all ad valorem taxes attributable to the portion of such Owner's Parcel containing a portion of Main Street.

8.6 Insurance. To the extent deemed required by this Declaration or otherwise determined to be desirable by Master Developer or, after the Turnover Date, the Board, Master Developer or the Association (as applicable) shall obtain and keep in full force and effect: (i) fire and extended coverage insurance with respect to all Improvements and personal property owned by the Association, if any, and (ii) broad form comprehensive general liability insurance covering public liability for bodily injury and property damage. All such insurance so obtained by the Master Developer or Association may contain such deductibles as the obtaining Person may reasonably determine, and the amount of any deductibles paid shall be included in Common Facilities Costs. Each Owner shall be deemed irrevocably to have appointed Master Developer or the Association, as applicable, as attorney-in-fact for the purpose of purchasing and maintaining insurance as contemplated hereby, handling all claims made thereunder, and the allocation and disbursement of any proceeds paid with respect thereto, and shall further be deemed bound by the understanding that the cost of all such insurance shall be included in Common Facilities Costs hereunder.

8.7 Rules and Regulations. The Association (or, prior to transfer to the Association as contemplated by this Article 8, Master Developer) may, from time to time, adopt, amend, repeal and enforce rules and regulations as may be deemed necessary or desirable for the implementation of this Declaration, the operation of the Association, and the use and enjoyment of the Common Facilities of the Project. Any such rules and regulations shall be applied reasonably and in a non-discriminatory manner, and each Owner shall be required to comply with such rules and regulations. Notwithstanding the foregoing, in the event of any conflict between such rules and regulations and this Declaration, the terms of this Declaration shall control.

8.8 Granting of Easements. Master Developer or, after the Turnover Date, the Association shall have the power to grant permits, licenses and easements for access, utilities, drainage, water facilities and other matters, in, on, over, across and under any the Common Facilities, all as may be reasonably necessary for the proper maintenance of the Common Facilities.

8.9 Employment of Contractors, Agents and Employees. Either Master Developer or the Association, as applicable, shall have the power to retain and pay for the services of any manager or managers to undertake any of the management duties or other functions for which the Operator is responsible; provided, however, that the Operator shall remain ultimately responsible for the performance and exercise of its duties, powers and functions in accordance with this Declaration (and, as applicable, the articles of incorporation and bylaws of the Association). In addition, the Operator shall have the power to hire and discharge employees and agents and to retain and pay for legal, accounting and other services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Operator or the Association, as the case may be. All costs and expenses incurred in connection with such engagements and hirings shall be Common Facilities Costs.

8.10 Limitation on Liability; Indemnification of Offices and Directors.

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To the extent permitted by applicable law, neither Master Developer nor the Association, nor any partner, member, director, officer, agent, or employee of either shall be liable to any Owner or Occupant or to any other Person for any loss, damage or injury, or claim thereof, arising out of or in any way connected with the performance or non-performance of the Operator's or Association's duties under this Declaration unless due to the willful misconduct, gross negligence or bad faith of Master Developer or the Association, or their respective directors, officers, agents or employees, as the case may be. To the maximum extent permitted by applicable law, the Association shall indemnify and hold harmless the directors, officers and employees of the Association who may be made a party to any proceeding because the individual is or was a director, officer or employee of the Association.

8.11 Directors' and Officers' Insurance. From and after the Turnover Date, the Association shall purchase and maintain, as a Common Facilities Cost, directors' and officers' insurance on behalf of any Person who is or was a director or officer of the Association against any liability asserted against such Person and incurred by such Person in such capacity, or arising out of such Person's status as such.

8.12 Enforcement of Directors' Duties. In the event that the Board of the Association shall fail to perform any duty or duties that are to be performed by it in accordance with the terms of this Declaration, any Owner who is aggrieved by such failure shall have the right to proceed in equity to compel the Board to perform such duty or duties. In no event, however, except as otherwise provided in Section 8.10 hereof, shall any member or members of the Board have any liability to any Owner for any failure by the Board to perform any such duty or duties. If any such Owner prevails in such proceeding, the Association shall pay to such Owner, as a Common Facilities Cost of the Association, such Owner's reasonable costs and expenses incurred in connection with such proceeding, including court costs and reasonable attorneys' fees.

ARTICLE 9

LIABILITY AND INDEMNIFICATION

9.1 Liability; Indemnification. Subject to the provisions of Section 9.2.2 hereof and the following agreements respecting the City, each Owner shall indemnify and hold every other Owner and Occupant of the Parcels harmless (except for loss or damage resulting from the tortuous acts of said other Owner or Occupant) from and against any damages, liability, actions, claims and expenses (including, without limitation, attorneys' fees at trial and on appeal in a reasonable amount) in connection with any loss of life, personal injury and/or damage to property arising from or out of any occurrence in or upon such indemnifying Owner's Parcel, or occasioned wholly or in part by any act or omission of such Owner. Notwithstanding the foregoing, to the extent that, as a matter of law, the City is prohibited from indemnifying any other party in accordance with the terms hereof, the City shall not be required to comply with this Section 9.1.

9.2 Insurance Matters.

9.2.1 Each Owner shall maintain or cause to be maintained broad form comprehensive general liability insurance covering public liability for bodily injury and property damage insurance insuring against claims on account of loss of life, bodily injury or property damage that may arise from, or be occasioned by, the condition, use or occupancy of the

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Common Areas of its Parcel by the Owner and the Occupants or other Permittees of its Parcel, except as herein provided. Such insurance shall be carried by a reputable insurance company or companies qualified to do business in the State in which the Parcels are located and shall have single-limit coverage for property damage, loss of life or bodily injury of not less than \$2,000,000.00 for each occurrence in Constant Dollars. Each Owner shall maintain or cause to be maintained contractual liability insurance specifically endorsed to cover such Owner's agreement to indemnify set forth in Section 9.1 hereof. Such insurance may be carried under a "blanket" policy or policies covering other properties of the Owner and its parents, subsidiaries and affiliates. Each Owner shall, upon written request from any other Owner, furnish to the Owner making such request certificates of insurance evidencing the existence of the insurance required to be carried pursuant to this Section 9.2.1.

9.2.2 All insurance carried in accordance with Section 9.2.1 above, as well as all property insurance carried pursuant to Article 10 of this Declaration below shall, as appropriate, include provisions denying to the insurer subrogation rights against the other Owners and Occupants to the extent such rights have been waived by the insured prior to the occurrence of damage or loss. Each Person becoming an Owner or Occupant with respect to the Site or some Parcel thereof shall be deemed to have waived, and Master Developer on behalf of each such Person hereby waives and releases, any rights of recovery against any other Owner or Occupant, and their respective partners, members, shareholders, directors, officers, employees, and agents, for any damage or consequential loss covered by such policies, against which such Owner is protected by insurance, to the extent of the proceeds payable under such policies (or which would have been payable under such policies had such policies been obtained and maintained as required under this Declaration), whether or not such damage or loss shall have been caused by any acts or omissions of the Persons in whose favor the waiver and release run.

9.2.3 "**Constant Dollars**" (for purposes of this Section and the Declaration generally) shall mean the then present value of the dollars to which such phrase refers. In determining Constant Dollars, an adjustment shall occur on January 1 of the sixth (6th) calendar year following the date of this Agreement, and thereafter at five (5) year intervals. Constant Dollars shall be determined by multiplying the dollar amount to be adjusted by a fraction, the numerator of which is the Current Index Number and the denominator of which is the Base Index Number. The "**Index**" shall be the Consumer Price Index for All Urban Consumers, U.S. City Average, All items published by the United States Department of Commerce (base year 1982-84=100), or any successor index thereto as hereinafter provided; the "**Current Index Number**" shall be the level of the Index for the month of September of the year preceding the adjustment year; the "**Base Index Number**" shall be the level of the Index for the month during which this Agreement is dated. If publication of the Index is discontinued, or if the basis of calculating the Index is materially changed, then the Owners participating in the agreement contemplated by this Section shall, by majority vote (based on square footage) substitute for the Index comparable statistics as computed by an agency of the United States Government or, if none, by a substantial and responsible periodical or publication of recognized authority more closely approximating the result which would have been achieved by the Index.

ARTICLE 10 CASUALTY AND CONDEMNATION

10.1 Casualty.

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10.1.1 Subject to Section 10.1.2 below, if any Building or other Improvements located on any Parcel is or are damaged or destroyed by fire or other cause, the Owner of such Building or other Improvements shall promptly cause either: (i) the repair, restoration, or rebuilding of the Building or Improvements so damaged or destroyed, or (ii) the razing of any damaged Building or other Improvements, the filling of any excavation, and the performance of any other work necessary to put such portions of the Parcel at issue in a clean, sightly, lawful and safe condition. No Approvals of Master Developer shall be required to restore the damaged Building or other Improvements to the condition existing prior to the casualty. To the extent the Building or other Improvements being restored is or are being altered so as to differ from the original Building or Improvements, then in such case Approval of the plans for restoration must be obtained from Master Developer prior to commencement of such restoration in accordance with the further provisions of this Declaration.

10.1.2 If any Common Area Improvements are damaged or destroyed, the Master Developer or, after the Turnover Date, the Association shall promptly cause the repair, restoration or rebuilding of the damaged Common Area Improvements to their previously improved condition and restore such other areas of the Parcel as necessary to avoid interference with the remaining Common Areas of the Parcels and the easement rights of the parties contemplated hereby, and the Owner on which any such damage or destruction occurs shall make available and pay over to Master Developer or the Association, as applicable, any insurance proceeds attributable to damage or destruction of the Common Area Improvements so damaged or destroyed. Costs incurred by or at the direction of the Master Developer or, after the Turnover Date, the Association, to repair such damage, may be assessed as a Special Assessment payable by the Owners; provided that any Owner not maintaining insurance coverages required by this Agreement may be subjected to a Special Assessment for the cost of repair to the extent same would have been covered by insurance had such Owner maintained insurance in accordance with the provisions hereof.

10.2 **Casualty Insurance.** To assure the performance of their respective obligations under Section 10.1 above, the Owners of the respective Parcels shall cause fire and extended coverage insurance to be carried on all Buildings and other Improvements on their respective Parcels (including, as applicable, Common Area Improvements) in the amount of the full replacement cost of such Improvements (excluding foundations), and (without limiting the required coverage amounts) in amounts sufficient to avoid the effect of any co-insurance provisions of such policies and otherwise conforming to the requirements and provisions of Section 9.2.1 hereof, including (without limitation) those requirements regarding the waiver of subrogation rights by insurers and the waiver of claims by Owners. Proceeds of such insurance respecting damage to or destruction of Common Area Improvements shall be made available for restoration and repair in accordance with the provisions of Section 10.1.2 above. Notwithstanding the foregoing, Master Developer or, following the Turnover Date, the Association may elect from time to time to carry fire and extended coverage insurance with respect to all Common Area Improvements upon the Site, in which case (i) the proceeds of such insurance will be used for repair and restoration of damaged or destroyed Common Area Improvements in accordance with the provisions of Section 10.1 above, (ii) the individual Owners of Parcels need not insure the Common Area Improvements while such insurance is being maintained by the Association and (iii) the costs of any such insurance so maintained by the Association shall be included in Common Facilities Costs, and such costs (as well as

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deductibles payable with respect thereto) shall be paid by all Owners by virtue of payment of Assessments hereunder.

10.3 **Condemnation.** If the whole or any part of a Parcel shall be taken by right of eminent domain, condemnation or any similar authority of law (a "**Taking**"), the entire award for the value of the land and Improvements so taken shall belong to the Owner of the property or rights so taken or to such Owner's Mortgagees or Occupants, as their respective interests may appear, and no other Owner shall have a right to claim any portion of such award by virtue of any interest created by this Declaration. Any Owner of a Parcel which is not the subject of a Taking may, however, file a collateral claim with the condemning authority over and above the value of the land and rights taken from the Owner of the Parcel at issue, to the extent of any damage suffered by such other Owner resulting from the Taking, if and only so long as such claim shall not operate to reduce the award otherwise allocable to the Parcel (or interest therein) taken. In the event of a partial Taking, the Owner of the portion of the Parcel so taken shall restore the Improvements located on the Common Areas of the Owner's Parcel as nearly as possible to the condition existing prior to the Taking, without contribution from any other Owner, and any portion of any condemnation award necessary therefor shall be held in trust and applied for such purpose.

ARTICLE 11

DEFAULT AND REMEDIES

11.1 Self-Help; Lien Rights; Disputes.

11.1.1 If any Owner shall default in the performance of an obligation of such Owner under this Declaration (such Owner being herein called a "**Defaulting Owner**"), which default affects the Association or the Owner of another Parcel or any Occupant thereof (an "**Affected Party**"), the Affected Party may thereupon give written notice of such default to the Defaulting Owner, and to any Mortgagee of the Defaulting Owner (provided that the Affected Owner shall have previously received actual notice of the interests and notice addresses of such Mortgagee). If the Defaulting Owner, or such Mortgagee, shall have failed to cure such default within thirty (30) days after the giving of such notice (or if such default cannot reasonably be cured within such thirty (30) day period, then if the Defaulting Owner, or such Mortgagee, shall not have commenced the cure thereof within such thirty (30) day period and thereafter diligently prosecuted such cure to completion), the Affected Party shall have the right to perform such obligation on behalf of the Defaulting Owner. In such event, the Defaulting Owner shall promptly reimburse the Affected Party the cost thereof, together with interest thereon from the date of outlay at the Default Rate as of the date of outlay. Any provision of this Section 11.1 to the contrary notwithstanding (including, without limitation, the thirty (30) day notice and cure provision above), in the event of an emergency, an Affected Party may exercise its rights hereunder after such notice as is practical under the circumstances. The rights, notice requirements and remedies set forth in this Section 9.1 are in addition to all other remedies an Affected Party may have at law or in equity.

11.1.2 Any claim for reimbursement, together with interest thereon at the Default Rate as provided above, shall be secured by a lien on the Parcel and Improvements thereon owned by the Defaulting Owner. Such lien shall be effective upon the recording of a notice thereof in the appropriate recording office of the county in which the Parcels are located. The lien shall be subordinate to any Mortgage recorded prior to recordation of the lien. Any purchaser at any

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Foreclosure under any such Mortgage shall not be subject to any such subordinate lien, but shall be and remain subject to liens accruing pursuant to this Section 11.1 following the Foreclosure.

11.1.3 Upon written notice to an Owner by any other Owner at any time (but no more than twice in any calendar year), the non-requesting Owner shall, within fifteen (15) days of receipt of such written request, execute an estoppel certificate in form and substance reasonably acceptable to the non-requesting Owner, addressed to the party designated by such requesting Owner and stating (i) whether this Declaration is in full force and effect and whether there are any amendments hereto; (ii) whether the requesting Owner is in compliance with this Declaration and if not, the nature of any non-compliance; (iii) all monies, if any, that may be due by reason hereof to the Owner executing such estoppel certificate by such requesting Owner; and (iv) such other matters relating to this Declaration as may be reasonably requested by the requesting Owner.

11.2 **Injunctive and Other Remedies.** In the event of a breach by any Owner of any obligation of this Declaration, the other Owners each shall be entitled (i) to obtain an order specifically enforcing the performance of such obligation or an injunction prohibiting any such breach, Master Developer hereby acknowledging the inadequacy of legal remedies and the irreparable harm which would be caused by any such breach, and/or (ii) to relief by other available legal and equitable remedies from the consequences of such breach. Any action taken or document executed in violation of this Declaration shall be void and may be set aside upon the petition of another Owner. Any costs and expenses of any such proceeding (including, without limitation, attorneys' fees at trial and on appeal in a reasonable amount), shall be paid by the Defaulting Owner and, if recorded, shall constitute a lien against the land or rights in the Parcel of the Defaulting Owner, and Improvements thereon, until paid.

11.3 **Non-Waiver.** No delay or omission of any Owner in the exercise of any right accruing upon any default of any other Owner shall impair such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by any Owner of a breach of, or a default in, any of the terms or conditions of this Declaration by any other Owner shall not be construed to be a waiver of any subsequent breach of or default under the same provision or any other provision of this Declaration. Except as otherwise specifically provided in this Declaration, (i) no remedy provided in this Declaration shall be exclusive, but each shall be cumulative with all other remedies provided in this Declaration, and (ii) all remedies at law or in equity shall be available.

11.4 **Non-Terminable Declaration.** No breach of the provisions of this Declaration shall entitle any Owner or other Person to cancel, rescind or otherwise terminate this Declaration or (without limitation) easements established hereby, but such limitation shall not affect, in any manner, any other rights or remedies which any Owner or other Person may have hereunder by reason of any breach of the provisions of this Declaration. No breach of the provisions of this Declaration shall defeat or render invalid the lien of any Mortgage made in good faith for value covering any part of the Parcels and any Improvements thereon (except where such Mortgage is recorded subsequent to recordation of any notice of lien asserted pursuant to the provisions of this Declaration).

11.5 **Force Majeure.** In the event any Owner or any other Person shall be delayed or hindered in or prevented from the performance of any act required to be performed by such Owner or Person under this Declaration by reason of acts of God, strikes, lockouts, unavailability

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of materials, failure of power, governmental laws or regulations, riots, insurrections, the act or failure to act of another Owner hereunder, adverse weather conditions in excess of climatic norms preventing the performance of work as certified to by an architect, war or other reason beyond such Owner's or Person's reasonable control, then the time for performance of such act shall be extended for a period equivalent to the period of such delay. Lack of adequate funds or financial inability to perform, and inability to obtain any required permits, licenses, approvals or consents, shall not be deemed to be a cause beyond the control of a Person.

11.6 **Dispute Resolution.** Any dispute between the parties respecting this Declaration may be litigated under the provisions of any simplified procedure for court determination of disputes applicable under the laws of the State of Florida, if appropriate and available, or, with the mutual agreement of the parties, may be submitted to arbitration. In either of such events, all parties will join in a request for expediting the disposition of any proceeding brought to resolve the dispute. The prevailing party in the dispute shall be reimbursed for any court charges related to the resolution of the dispute and its reasonable attorneys' fees, both at trial and on appeal.

ARTICLE 12

DURATION; MODIFICATION; EFFECT OF DECLARATION

12.1 **Duration.** The provisions of this Declaration shall run with and bind title to the Site and all rights and interests therein, shall be binding upon and inure to the benefit of Master Developer, the Association, and all Owners and Mortgagees, and their respective heirs, executors, legal representatives, successors and assigns, and shall be and remain in effect until the fiftieth (50th) anniversary of the date this Declaration is recorded, after which time it shall be extended automatically for successive periods of ten (10) years, unless terminated by a written instrument signed by Owners holding two-thirds (2/3) of the votes entitled to be voted by the Members. Notwithstanding the foregoing, the easements granted in Article 3 hereof are and shall be perpetual, except that dedication to and acceptance by an appropriate Governmental Authority or conveyance or grant to an appropriate public utility of the facilities that are the subject of any such easements shall terminate those easements if such dedication, conveyance, or grant so provides.

12.2 **Amendment.** This Declaration may be amended from time to time by an instrument in writing executed by Master Developer (so long as Master Developer retains an interest in the Site directly or through an affiliate) or, after Master Developer no longer has an interest, the Owners of a majority of the acreage comprising the Site; provided that, notwithstanding the foregoing, no amendment of this Declaration which imposes a greater restriction on the use or development of a Parcel or increases the liabilities and obligations of the Owner of such Parcel will be enforced against the Owner of such Parcel unless such Owner Approves the amendment at issue, such Approval not to be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, for so long as the City shall have the right to acquire or reacquire some or all of the Site in accordance with the terms of the MDA and, after acquisition or reacquisition of any Parcel of the Site, for so long as the City remains the Owner thereof, no amendment to this Declaration may be made without the joinder and approval of the City (not to be unreasonably withheld, delayed or conditioned). Amendments made pursuant to the provisions of this Section 12.2 shall inure to the benefit of and be binding upon all real property and interests therein that are part of the Project.

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12.3 **Mortgage Subordination.** Any Mortgage affecting any portion of the Parcels shall at all times be subject and subordinate to the terms of this Declaration, except to the extent otherwise expressly provided herein with respect to Assessment liens or otherwise except for any other liens asserted and recorded hereunder prior to recordation of the Mortgage, and any party Foreclosing any such Mortgage shall acquire title subject to all of the terms and provisions of this Declaration, except as provided to the contrary in Section 11.1.2 hereof as regards subordinate liens. Master Developer, by its execution hereof, represents and warrants that there is no presently existing Mortgage affecting the Project or any portion or Parcel thereof, other than any Mortgage that is expressly subordinate to this Declaration.

12.4 **Binding Effect.** Every agreement, covenant, promise, undertaking, condition, easement, right, privilege, option and restriction made, declared, granted or assumed, as the case may be, in this Declaration as regards a Parcel is for the benefit of each Owner of any other Parcel within the Site and shall constitute an equitable servitude on such Parcel appurtenant to and for the benefit of such other Parcels, and the benefits and burdens thereof shall run with the title to the Parcels. Subject to the provisions of Section 11.1.2, any transferee of any part of the Parcels shall automatically be deemed, by acceptance of the title to any portion of the Parcels, to have assumed all obligations of this Declaration relating thereto to the extent of its interest in its Parcel and to have agreed with the then Owner or Owners of all other portions of the Parcels to execute any and all instruments and to do any and all things reasonably required to carry out the intention of this Declaration. Upon the completion of transfer of ownership of a Parcel, the transferor shall be relieved of all further liability under this Declaration arising from and after the date of the transfer, but no such transfer shall release or excuse such transferring Owner with respect to matters remaining unsatisfied which arose during such Owner's period of ownership respecting the Parcel so conveyed.

12.5 **Non-Dedication.** Nothing contained in this Declaration shall be deemed to be a gift or dedication of the Site or any Parcel or other portion of same to the general public or for any public use or purpose whatsoever, it being the intention of Master Developer and, by its joinder, the City, that nothing in this Declaration, expressed or implied, shall confer upon any Person, other than Owners (and to the extent intended hereby, Occupants and Permittees), any rights or remedies under or by reason of this Declaration.

12.6 **Responsibility.** Any provision of this Declaration to the contrary notwithstanding, each Owner shall be liable and responsible for the obligations, covenants, agreements and responsibilities created by this Declaration, and for any judgment rendered hereon, only to the extent of its respective interest in the land and improvements on such Owner's Parcel or Parcels.

ARTICLE 13 **MISCELLANEOUS**

13.1 **Notices.** All notices, requests, demands or other communications hereunder shall be in writing and deemed given (i) when delivered personally, or (ii) on the day deposited in the U.S. Mail, by registered or certified mail, return receipt requested, postage prepaid, or (iii) on the day deposited with a recognized overnight courier service (such as Federal Express), in all events addressed to the parties at the addresses described in this Section 13.1 (or to such other address which a party may from time to time hereafter designate by notice given in accordance with this Section 13.1). Notices, requests, demands or other communications directed to Master

THIS IS NOT A

Developer or the City shall (subject to the provisions of the immediately preceding sentence regarding the change of notice addresses) be addressed to the addresses set forth below; otherwise, notices, requests, demands or other communications to any subsequent Owner hereunder shall be delivered to the address for notices provided by such Owner in a notice to the other Owners hereunder given subsequent to its acquisition in accordance with the provisions hereof, again subject to the provisions of the immediately preceding sentence regarding change of notice addresses.

Notice Address for Master Developer:

Vlass Temple Terrace, LLC
Meridian Buckhead
3334 Peachtree Road
Suite 1703
Atlanta, Georgia 30326
Attn: Mr. Michael B. Vlass, Managing Member.

Notice Address for the City:

City of Temple Terrace
11250 North 56th Street
P.O. Box 16930
Temple Terrace, Florida 33687
Attn: City Manager.

13.2 **Severability.** If any provision of this Declaration, or any portion thereof, or the application thereof to any Person or circumstances, shall to any extent be held invalid, inoperative or unenforceable, the remainder of this Declaration, or the application of such provision or portion thereof to any other Persons or circumstances, shall not be affected thereby. It shall not be deemed that any such invalid provision affects the consideration for this Declaration. Each provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law.

13.3 **Governing Law.** This Declaration shall be governed by and construed in accordance with the laws of the State of Florida.

13.4 **Captions.** The Article and Section headings in this Declaration are for convenience only, shall in no way define or limit the scope or content of this Declaration, and shall not be considered in any construction or interpretation of this Declaration or any part hereof.

13.5 **No Joint Venture.** Nothing in this Declaration (and no act of the Owners taken in accordance with this Declaration) shall be construed to make the Owners partners or joint venturers, to create the relationship of principal and agent between any Owners, to create any association among the Owners, or to render any Owner liable for the debts or obligations of any other Owner. Without limitation, nothing in this Declaration shall be construed to render Master Developer and the City partners or joint venturers.

13.6 **Conflicts.** The Applicable Zoning, applicable building and inspection codes and

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regulations, and any other Requirement of a Governmental Authority shall be observed. In the event of any conflict between this Declaration and any such Requirement of a Governmental Authority, the provision that requires more restrictive standards shall apply.

13.7 **No Reverter.** No covenant or restriction set forth in this Declaration is intended to be or shall be construed as a condition subsequent, a conditional limitation, or as creating a possibility of reverter or any comparable loss of rights with respect to any interest in or with respect to a Parcel, subject only to the provisions hereof respecting enforcement of liens arising by virtue of this Declaration.

13.8 **Interpretations.** In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given the interpretation or construction that will best effect the intent of the purposes set forth in Article 2 hereof. No provision of this Declaration shall be construed against or interpreted to the disadvantage of any Owner, including, without limitation, Master Developer, by any court or other Governmental Authority by reason of such Owner's having or being deemed to have structured or dictated such provision.

13.9 **Gender and Grammar.** The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other Persons of any sort, whether male, female or gender neutral, shall in all cases be assumed as though in each case fully expressed.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

THIS IS NOT A CERTIFIED COPY

IN WITNESS WHEREOF, Master Developer has caused this Declaration to be executed and sealed as of the day, month and year first above written, with the City joining in the execution hereof with Master Developer for the purposes set forth hereinabove.

MASTER DEVELOPER:

Signed, sealed and delivered
in the presence of:

VLASS TEMPLE TERRACE, LLC, a
Georgia limited liability company

Barbara Anne Wasiko
Witness
Print Name: Barbara Anne Wasiko

By: [Signature]
Michael B. Vlass, Manager

[Signature]
Witness
Print Name: Terah Bancroft

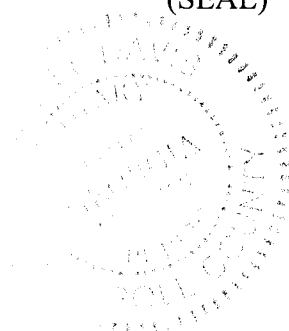
STATE OF Georgia
COUNTY OF Fulton

The foregoing instrument was acknowledged before me this 09th day of June, 2010, by Michael B. Vlass, as Manager of, and on behalf of, VLASS TEMPLE TERRACE, LLC, a Georgia limited liability corporation. He [is personally known to me] [has produced _____ as identification].

Karen E. Davis
Notary Public
Print Name: Karen E. Davis

My commission expires: 11/9/2012

(SEAL)



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JOINDER BY THE CITY

The City joins in the execution of this Declaration for the purposes set forth in the body of the Declaration, including specifically (but without limitation) the provisions of Sections 2.3, 5.3.2 and 10.6.

IN WITNESS WHEREOF, the City has caused this Joinder to be executed and delivered by its duly authorized signatories this 30 day of June, 2010.

THE CITY:

Signed, sealed and delivered
in the presence of:

CITY OF TEMPLE TERRACE, a Florida
municipal corporation

Melissa E. Small

Witness

Print Name: Melissa E. Small, City Clerk

By:

Joseph A. Affronti Sr.
Name: JOSEPH A. AFFRONTI SR.
Title: Mayor

Witness

Print Name: Gregory Haney

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 30th day of June, 2010, by Joseph A. Affronti, Sr., as Mayor of, and on behalf of, the City of Temple Terrace, a Florida municipal corporation. S/He [is personally known to me] [has produced _____ as identification].



Gregory-Scott R. Haney
Commission # DD597349
Expires October 20, 2010
Bonded Troy Fain - Insurance, Inc. 800-385-7019

Gregory Haney
Notary Public

Print Name: Gregory Haney

My commission expires:

(SEAL)

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LIST OF EXHIBITS

- EXHIBIT "A"** -- Legal Description of Site
EXHIBIT "B" -- Site Plan
EXHIBIT "C" -- Site Plan Marked to Show Main Street, Park Parcel and Phase I Parcel
EXHIBIT "D" -- Phase I Project Sign Easement Area
EXHIBIT "E" -- Allocation of Panel Space – Phase I Project Sign

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EXHIBIT "A"
Legal Description
CERTIFIED COPY

AREA "A"

PARCEL A

THAT TRACT OR PARCEL OF LAND LYING AND BEING IN SECTION 22, TOWNSHIP 28 SOUTH, RANGE 19 EAST, HILLSBOROUGH COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF SECTION 22, TOWNSHIP 28 SOUTH, RANGE 19 EAST, HILLSBOROUGH COUNTY, FLORIDA; THENCE ALONG THE SURVEY CENTERLINE OF STATE ROAD S-583, ALSO KNOWN AS 56TH STREET, SOUTH 00°00'31" EAST, A DISTANCE OF 50.14 FEET; THENCE LEAVING SAID LINE NORTH 89°59'29" EAST, A DISTANCE OF 45.00 FEET TO THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD S-583 AND THE SOUTHERLY RIGHT-OF-WAY LINE OF BULLARD PARKWAY AND THE POINT OF BEGINNING; THENCE SOUTH 89°20'43" EAST, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF BULLARD PARKWAY, FORMERLY KNOWN AS TEMPLE TERRACE HIGHWAY, A DISTANCE OF 589.73 FEET; THENCE LEAVING SAID LINE SOUTH 00°00'50" WEST, A DISTANCE OF 1,464.67 FEET; THENCE NORTH 89°57'31" WEST, A DISTANCE OF 589.11 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD S-583, 45.00 FEET EASTERLY OF SAID SURVEY CENTERLINE; THENCE NORTH 00°00'31" WEST, ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 1,470.98 FEET TO THE POINT OF BEGINNING.

CONTAINING 19.861 ACRES, MORE OR LESS, SHOWN ON AND DESCRIBED AS "PARCEL A" ACCORDING TO THAT CERTAIN SURVEY ENTITLED "ALTA/ACSM LAND TITLE SURVEY/BOUNDARY SURVEY FOR CITY OF TEMPLE TERRACE SOUTHEAST QUADRANT REDEVELOPMENT", PREPARED BY KING ENGINEERING ASSOCIATES, INC., BEARING THE SEAL AND CERTIFICATION OF JAMES E. GODFREY, PLS, FLORIDA REGISTERED LAND SURVEYOR NO. 4541, DATED AUGUST 6, 2009.

TOGETHER WITH:

PARCEL E

THAT TRACT OR PARCEL OF LAND LYING AND BEING IN SECTION 22, TOWNSHIP 28 SOUTH, RANGE 19 EAST, HILLSBOROUGH COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

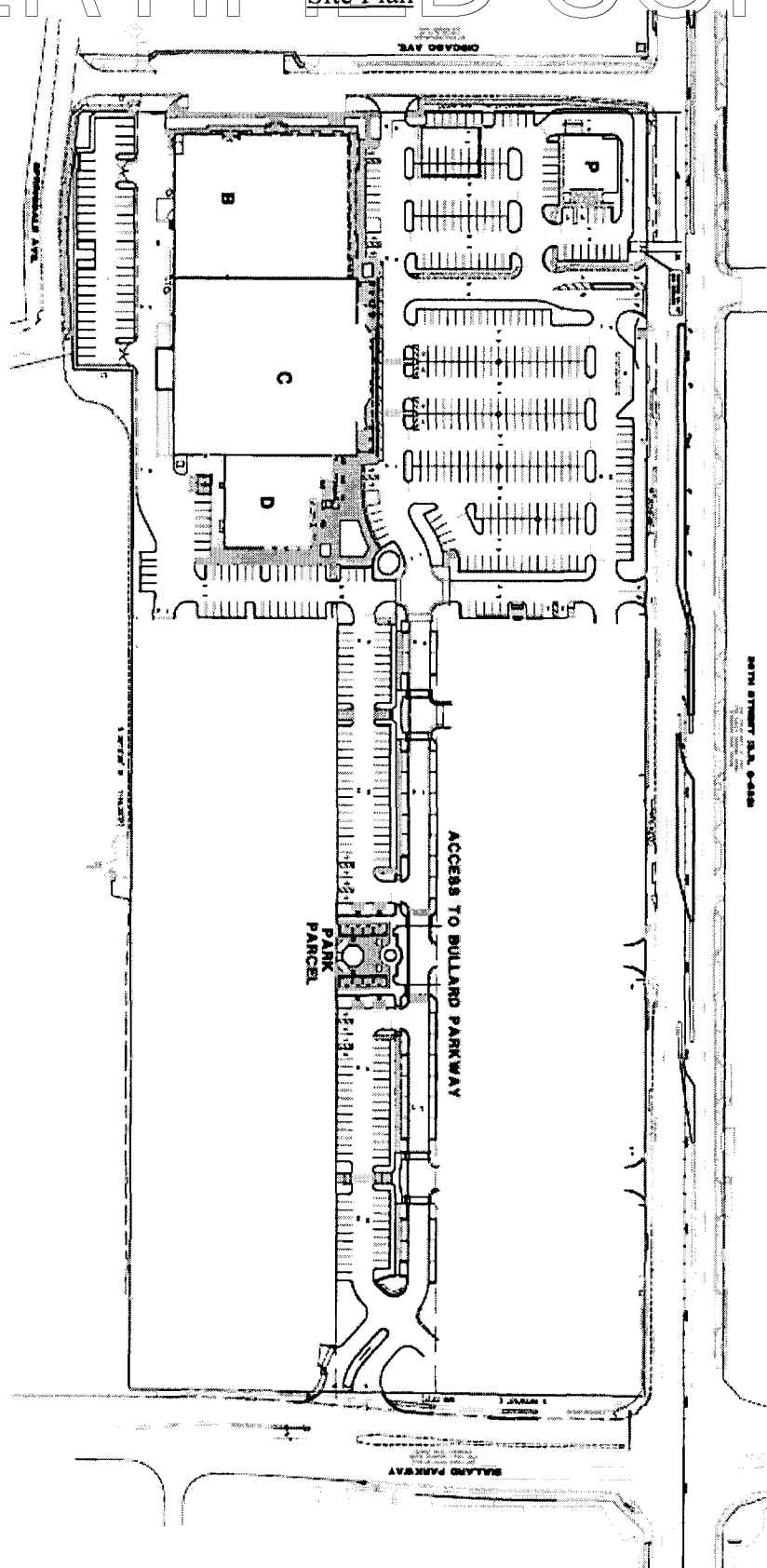
COMMENCING AT A THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF SECTION 22, TOWNSHIP 28 SOUTH, RANGE 19 EAST, HILLSBOROUGH COUNTY, FLORIDA; THENCE ALONG THE SURVEY CENTERLINE OF STATE ROAD S-583, ALSO KNOWN AS 56TH STREET, SOUTH 00°00'31" EAST, A DISTANCE OF 50.14 FEET; THENCE LEAVING SAID LINE NORTH 89°59'29" EAST, A DISTANCE OF 45.00 FEET

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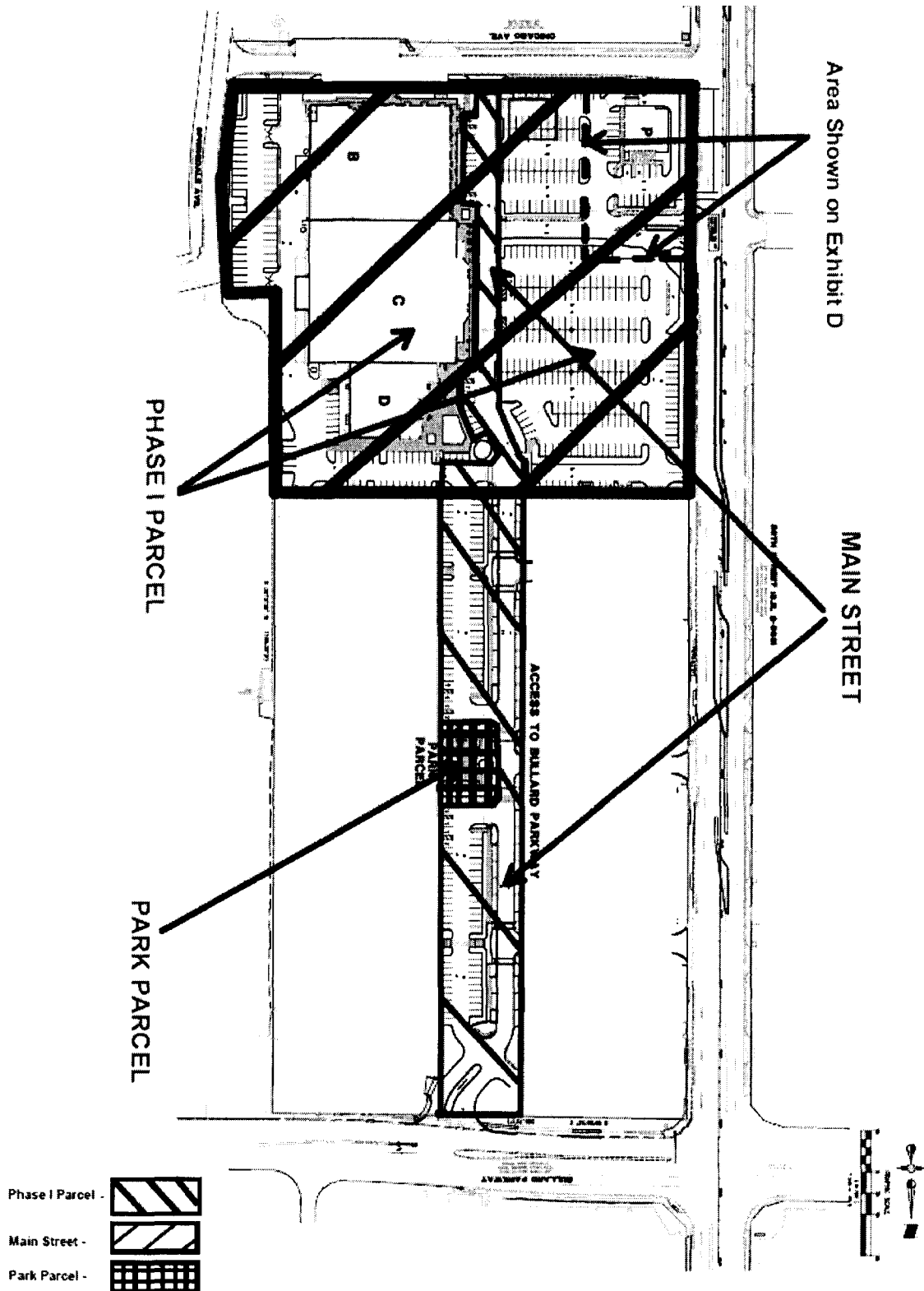
TO THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD S-583 AND THE SOUTHERLY RIGHT-OF-WAY LINE OF BULLARD PARKWAY; THENCE ALONG THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD S-583, ALSO KNOWN AS 56TH STREET, SOUTH $00^{\circ}00'31''$ EAST, A DISTANCE OF 1,470.98 FEET TO THE INTERSECTION OF THE FORMER NORTHERLY RIGHT-OF-WAY LINE OF CHICAGO AVENUE; THENCE ALONG SAID LINE SOUTH $89^{\circ}57'31''$ EAST, A DISTANCE OF 589.11 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID LINE NORTH $00^{\circ}00'50''$ EAST, A DISTANCE OF 295.66 FEET TO THE SOUTH LINE OF PROPERTY CONVEYED TO AIMCO DORAL OAKS, L.P. IN O.R. BOOK 11034, PAGE 468, OF THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA; THENCE ALONG SAID LINE SOUTH $89^{\circ}16'14''$ EAST, A DISTANCE OF 67.08 FEET; THENCE LEAVING SAID LINE SOUTH $03^{\circ}02'02''$ EAST, A DISTANCE OF 109.21 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE SOUTHERLY 122.64 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 700.00 FEET, A CENTRAL ANGLE OF $10^{\circ}02'17''$, AND A CHORD BEARING AND DISTANCE OF SOUTH $01^{\circ}59'06''$ WEST 122.48 FEET; THENCE SOUTH $07^{\circ}00'14''$ WEST, A DISTANCE OF 63.86 FEET TO THE EXTENSION OF THE FORMER NORTHERLY RIGHT-OF-WAY LINE OF CHICAGO AVENUE; THENCE NORTH $89^{\circ}57'31''$ WEST, ALONG SAID EXTENSION, A DISTANCE OF 60.89 FEET TO THE POINT OF BEGINNING.

CONTAINING 20,647 SQUARE FEET OR 0.473 ACRES, MORE OR LESS, SHOWN ON AND DESCRIBED AS "PARCEL E" ACCORDING TO THAT CERTAIN SURVEY ENTITLED "ALTA/ACSM LAND TITLE SURVEY/BOUNDARY SURVEY FOR CITY OF TEMPLE TERRACE SOUTHEAST QUADRANT REDEVELOPMENT", PREPARED BY KING ENGINEERING ASSOCIATES, INC., BEARING THE SEAL AND CERTIFICATION OF JAMES E. GODFREY, PLS, FLORIDA REGISTERED LAND SURVEYOR NO. 4541, DATED AUGUST 6, 2009.

THIS IS NOT A EXHIBIT "B" CERTIFIED COPY Site Plan



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EXHIBIT "C"
CERTIFIED COPY
Site Plan Showing Main Street, Park Parcel and Phase I Parcel



See page 2 of this Exhibit "C" for the specific legal description of the Phase I Parcel

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LEGAL DESCRIPTION OF PHASE I PARCEL:

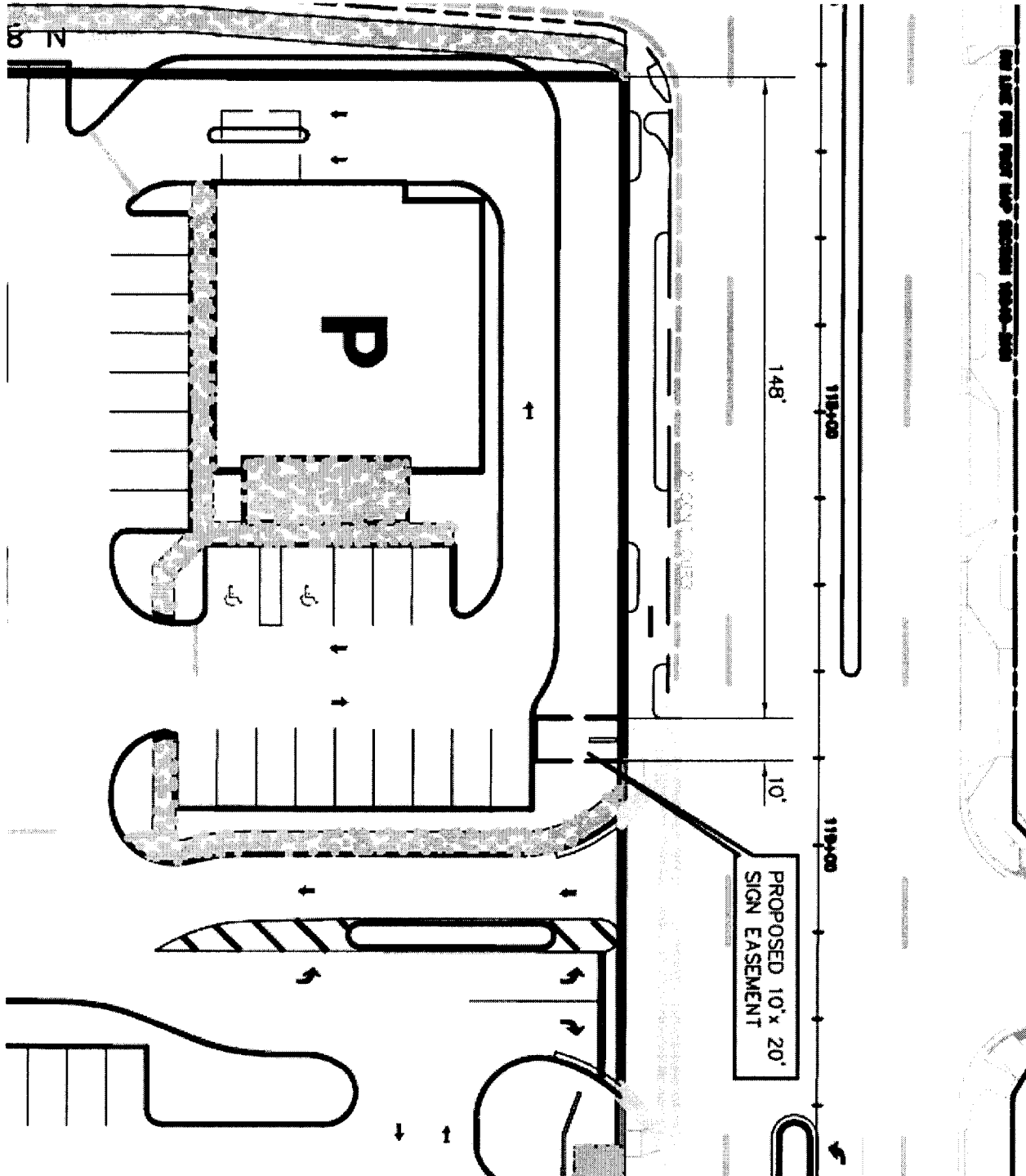
A PARCEL OF LAND LYING IN SECTION 22, TOWNSHIP 28 SOUTH, RANGE 19 EAST, HILLSBOROUGH COUNTY, FLORIDA. SAID PARCEL BEING THOSE PORTIONS OF TRACTS A-1, A-2, B-1, D-1, H AND ADDITIONAL CITY PARCEL, ALL AS DESCRIBED IN THAT CERTAIN QUIT CLAIM DEED RECORDED IN OFFICIAL RECORDS BOOK 19336, PAGE 1616, OF THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY, LYING WITHIN THE FOLLOWING METES AND BOUNDS DESCRIPTION:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF SECTION 22, TOWNSHIP 28 SOUTH, RANGE 19 EAST, HILLSBOROUGH COUNTY, FLORIDA; THENCE ALONG THE WEST BOUNDARY OF SAID SOUTHEAST 1/4, SOUTH $00^{\circ}06'43''$ WEST, 238.17 FEET; THENCE DEPARTING SAID WEST BOUNDARY, SOUTH $89^{\circ}53'17''$ EAST, 44.71 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF STATE ROAD S-583 (56th STREET); THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE, SOUTH $00^{\circ}10'20''$ WEST, 704.46 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE, SOUTH $89^{\circ}49'40''$ EAST, 589.22 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF THE CLOSED COMMONWEALTH AVENUE (BROADWAY ON PLAT), AS SHOWN ON MAP OF TEMPLE TERRACE ESTATES, AS RECORDED IN PLAT BOOK 17, PAGE 22, OF THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE, AND THE SOUTHERLY EXTENSION THEREOF, SOUTH $00^{\circ}12'09''$ WEST, 283.56 FEET; THENCE SOUTH $89^{\circ}04'57''$ EAST, 67.07 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF SPRINGDALE AVENUE; THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE, SOUTH $02^{\circ}50'45''$ EAST, 109.21 FEET TO A POINT ON A TANGENT CIRCULAR CURVE, CONCAVE WESTERLY; THENCE 122.64 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 700.00 FEET, A CENTRAL ANGLE OF $10^{\circ}02'17''$, A CHORD WHICH BEARS SOUTH $02^{\circ}10'22''$ WEST, A CHORD DISTANCE OF 122.48 FEET TO A POINT OF TANGENCY; THENCE SOUTH $07^{\circ}11'31''$ WEST, 63.86 FEET TO A POINT ON THE EASTERLY EXTENSION OF THE NORTHERLY RIGHT OF WAY LINE OF CHICAGO AVENUE, AS SHOWN ON SAID MAP OF TEMPLE TERRACE ESTATES; THENCE DEPARTING SAID WESTERLY RIGHT OF WAY LINE, AND ALONG THE EASTERLY EXTENSION OF SAID NORTHERLY RIGHT OF WAY LINE, AND SAID NORTHERLY RIGHT OF WAY LINE, NORTH $89^{\circ}46'14''$ WEST, 649.80 FEET TO A POINT ON THE AFORESAID EASTERLY RIGHT OF WAY LINE OF STATE ROAD S-583; THENCE DEPARTING SAID NORTHERLY RIGHT OF WAY LINE, AND ALONG SAID EASTERLY RIGHT OF WAY LINE, NORTH $00^{\circ}10'20''$ EAST, 578.63 FEET TO THE POINT OF BEGINNING.

CONTAINING 8.30 ACRES, MORE OR LESS, AS SHOWN ON THAT CERTAIN SURVEY ENTITLED "BOUNDARY, TOPOGRAPHIC AND TREE SURVEY, VCLASS TEMPLE TERRACE, LLC PROPERTY, HILLSBOROUGH COUNTY, FLORIDA", PREPARED BY EMK CONSULTANTS OF FLORIDA, INC., BEARING THE SEAL AND CERTIFICATION OF DAVID F. PEACH, P.S.M., FLORIDA REGISTERED LAND SURVEYOR NO. 5931, DATED JANUARY 1, 2010, LAST REVISED, JUNE 21, 2010.

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Phase I Project Sign Easement Area



The above depiction is intended solely to establish the sign easement area, and shall not be construed as approval by the City of any sign to be placed within said easement area.

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CERTIFIED COPY
Allocation of Panel Space – Phase I Project Sign

Design and allocation of panel area to be attached by amendment to this Declaration executed by Master Developer, Phase I Owner, and the City.