

**Bylaws**  
**Milano Section I Residents' Association, Inc.**

**BYLAWS**

**FOR**

**MILANO RECREATION ASSOCIATION, INC.**



**EXHIBIT "C" TO DECLARATION**

**TABLE OF CONTENTS**  
**FOR**  
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**OF**  
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**PAGE NO.**

1. <u>GENERAL</u> .....	1
1.1 <u>Principal Office</u> .....	1
1.2 <u>Seal</u> .....	1
1.3 <u>Definitions</u> .....	1
2. <u>MEMBERS</u> .....	1
2.1 <u>Qualifications</u> .....	1
2.2 <u>Voting Interest</u> .....	1
2.3 <u>Approval or Disapproval of Matters</u> .....	2
2.4 <u>Change of Membership</u> .....	2
3. <u>MEMBERS' MEETINGS: VOTING</u> .....	2
3.1 <u>Annual Meeting</u> .....	2
3.2 <u>Special Members' Meetings</u> .....	2
3.3 <u>Notice of Meetings; Waiver of Notice</u> .....	2
3.4 <u>Quorum</u> .....	3
3.5 <u>Vote Required</u> .....	3
3.6 <u>Proxy Voting</u> .....	3
3.7 <u>Adjourned Meetings</u> .....	4
3.8 <u>Order of Business</u> .....	4
3.9 <u>Minutes</u> .....	4
3.10 <u>Parliamentary Rules</u> .....	4
4. <u>BOARD OF DIRECTORS</u> .....	4
4.1 <u>Number and Terms of Service</u> .....	4
4.2 <u>Qualifications</u> .....	5
4.3 <u>Vacancies on the Board</u> .....	5
4.4 <u>Removal of Directors</u> .....	5
4.5 <u>Organizational Meeting</u> .....	5
4.6 <u>Other Meetings</u> .....	5
4.7 <u>Notice to Owners</u> .....	5
4.8 <u>Waiver of Notice</u> .....	6
4.9 <u>Quorum of Directors</u> .....	6
4.10 <u>Vote Required</u> .....	6
4.11 <u>Adjourned Meetings</u> .....	6
4.12 <u>The Presiding Officer</u> .....	6
4.13 <u>Compensation of Directors and Officers</u> .....	6

4.14 <u>Committees</u> .....	6
5. <u>OFFICERS:</u> .....	7
5.1 <u>Officers and Elections</u> .....	7
5.2 <u>President</u> .....	7
5.3 <u>Vice-Presidents</u> .....	7
5.4 <u>Secretary</u> .....	7
5.5 <u>Treasurer</u> .....	7
6. <u>FISCAL MATTERS</u> .....	8
6.1 <u>Depository</u> .....	8
6.2 <u>Budget</u> .....	8
6.3 <u>Reserves for Capital Expenditures and Deferred Maintenance</u> .....	8
6.4 <u>Assessments</u> .....	8
6.5 <u>Special Assessments</u> .....	8
6.6 <u>Fidelity Bonds</u> .....	8
6.7 <u>Financial Reporting</u> .....	9
6.8 <u>Fiscal Year</u> .....	9
7. <u>RULES AND REGULATIONS: USE RESTRICTIONS</u> .....	9
8. <u>COMPLIANCE AND DEFAULT: REMEDIES</u> .....	9
8.1 <u>Obligations of members; Remedies At Law Or In Equity; Levy of Fines and         Suspension of Use Rights</u> .....	9
8.2 <u>Availability of Remedies</u> .....	10
9. <u>AMENDMENT OF BYLAWS</u> .....	11
9.1 <u>Proposal</u> .....	11
9.2 <u>Procedure</u> .....	11
9.3 <u>Vote Required</u> .....	11
9.4 <u>Certificate; Recording</u> .....	11
10. <u>MISCELLANEOUS</u> .....	11
10.1 <u>Gender</u> .....	11
10.2 <u>Severability</u> .....	11
10.3 <u>Conflict</u> .....	11

**BYLAWS**  
**OF**  
**MILANO RECREATION ASSOCIATION, INC.**

1. **GENERAL**: These are the Bylaws of Milano Recreation Association, Inc., hereinafter the "Recreation Association", a corporation not for profit organized under the laws of Florida for the purpose of operating Milano pursuant to the Florida Not-For-Profit Corporations Act.

1.1 **Principal Office**. The principal office of the Recreation Association is c/o Pulte Home Corporation, 9148 Bonita Beach Road, Suite 102, Bonita Springs, FL 34135.

1.2 **Seal**. The seal of the Recreation Association shall be inscribed with the name of the Recreation Association, the year of its organization, and the words "Florida" and "not for profit." The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

1.3 **Definitions**. The definitions set forth in the Declaration of Covenants (the "Declaration") and the Florida Not-For-Profit Corporations Act, with particular reference to Sec 720.301, F.S., (2004), shall apply to terms used in these Bylaws.

2. **MEMBERS**:

2.1 **Qualifications**. The members of the Recreation Association shall be the record owners of legal title to the Parcels in Milano (except as expressly stated to the contrary herein, the terms "Parcels" and "Units" shall be utilized interchangeably). In the case of a Parcel subject to an agreement for deed, the purchaser in possession shall be deemed the owner of the Parcel for purposes of determining voting and use rights. Membership shall become effective upon the occurrence of the last to occur of the following events.

- (A) Recording in the Public Records of a Deed or other instrument evidencing legal title to the Parcel.
- (B) Approval by the Board of Directors as may be provided for in the Declaration.
- (C) Delivery to the Recreation Association of a copy of the recorded deed or other instrument evidencing title.
- (D) Delivery to the Recreation Association, if required, of a written designation of the primary occupants.

2.2 **Voting Interest**. The Class A Members of the Recreation Association are entitled to one (1) vote for each Parcel owned by them, to be cast on their behalf by the applicable Representative. The total number of Class A votes shall not exceed the total number of Parcels subject to this Declaration. The Class B Member shall be entitled to a number of votes equal to the total number of Parcels owned by the Class A Members.

plus one (1) vote; provided that subsequent to Transition, as referenced in Section 15 of the Declaration, the Class B Member shall be entitled to one vote for each Parcel owned by it.

2.3 Approval or Disapproval of Matters. Whenever the decision or approval of the Owner of a Parcel is required upon any matter, whether or not the subject of a Recreation Association meeting, such decision or approval may be expressed by the Representative.

2.4 Change of Membership. Following written approval of the Recreation Association, as elsewhere required herein, a change of membership in the Recreation Association shall be established by the new member's membership becoming effective as provided in 2.1 above. At that time the membership of the prior owner shall be terminated automatically.

2.5 Termination of Membership. The termination of membership in the Recreation Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with Milano during the period of his membership, nor does it impair any rights or remedies which the Recreation Association may have against any former owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

### 3. MEMBERS' MEETINGS: VOTING:

3.1 Annual Meeting. There shall be an annual meeting of the members in each calendar year. The annual meeting shall be held in Collier County, Florida, each year at a day, place and time designated by the Board of Directors, for the purpose of electing Directors and transacting any business duly authorized to be transacted by the members.

3.2 Special Members' Meetings. Special members' meetings must be held whenever called by the President or by a majority of the Directors, and may also be called by members having at least ten percent (10%) of the voting interests. The business at any special meeting shall be limited to the items specified in the notice of meeting.

3.3 Notice of Meetings; Waiver of Notice. Notice of all members' meetings must state the time, date, and place of the meeting, and include an agenda for the meeting. The notice of meeting must be mailed, delivered or electronically transmitted at least fourteen (14) days prior to the meeting to each Representative and member at the address which appears on the books of the Recreation Association. Each member and Representative responsible for providing the Recreation Association with notice of any change of address. An affidavit of the officer or other person making such mailing shall be retained in the Recreation Association records as proof of mailing. Attendance at any meeting by a Representative or member constitutes waiver of notice by that Representative or member unless the member objects to the lack of notice at the beginning of the meeting. Representatives and members may waive notice of any meeting at any time, but only by written waiver. All Class A Members shall be entitled to attend membership meetings but, with the exception of the election of Directors, all votes shall be cast by the Representative for each Neighborhood Association. Notice to the Representatives or members, as applicable, of meetings of the Board, meetings of a committee requiring notice in the same manner as meetings of the Board, and annual and special meetings of the members, may be electronically transmitted in the manner set forth in Section 617.0141, Florida Statutes (except as limited by Chapter 720, Florida Statutes and these Bylaws). Notice by electronic transmission is effective: when actually transmitted by facsimile telecommunication, if

correctly directed to a number at which the Representative or member has consented to receive notice; when actually transmitted by electronic mail, if correctly directed to an electronic mail address at which the Representative or member has consented to receive notice. Notice is also effective when posted on an electronic network that the Representative or member has consented to consult, upon the later of: such correct posting; or the giving of a separate notice to the Representative or member of the fact of such specific posting; or when correctly transmitted to the Representative or member, if by any other form of electronic transmission consented to by the Representative or member to whom notice is given. Consent by a Representative or member to receive notice by electronic transmission shall be revocable by the Representative or member by written notice to the Recreation Association. Any such consent shall be deemed revoked if: the Recreation Association is unable to deliver by electronic transmission two consecutive notices given by the Recreation Association in accordance with such consent; and such inability becomes known to the Secretary, Assistant Secretary or other authorized person responsible for the giving of notice. However, the inadvertent failure to treat such inability as a revocation does not invalidate any meeting or other action. Representatives and members are responsible for providing the Recreation Association with notice of any change of mailing address, facsimile number or electronic mail address. To the extent that a Representative or member has provided the Recreation Association with a facsimile number or electronic mail address and consented to receive notices by electronic transmission, such information shall be considered an "official record" until the Recipient or member has revoked his consent. However, the Recreation Association is not liable for an erroneous disclosure of electronic mail address or facsimile number. As used in these Bylaws, the term "electronic transmission" means any form of communication, not directly involving the physical transmission or transfer of paper, which creates a record that may be retained, retrieved, and reviewed by a recipient thereof and which may be directly reproduced in a comprehensible and legible paper form by such recipient through an automated process. Examples of electronic transmission include, but are not limited to, telegrams, facsimile transmission of images, and text that is sent via electronic mail between computers. An affidavit of the Secretary, an Assistant Secretary, or other authorized agent of the Recreation Association that the notice has been given by a form of electronic transmission is, in the absence of fraud, prima facie evidence of the facts stated in the notice. A member shall have the right to speak at a meeting of the Representatives with respect to all items opened for discussion or included on the agenda. A member has the right to speak for at least 3 minutes on any item, provided that the member submits a written request to speak prior to the meeting. The Recreation Association may adopt written reasonable rules governing the frequency, duration, and other manner of member statements.

**3.4 Quorum.** A quorum at meetings of the members shall be attained by the presence, either in person or by proxy, of Representatives entitled to cast at least 30% of the votes of the entire membership. After a quorum has been established at a members' meeting, the subsequent withdrawal of any Representatives, so as to reduce the number of voting interests represented below the number required for a quorum, shall not affect the validity of any action taken at the meeting before or after such persons leave.

**3.5 Vote Required.** The acts approved by a majority of the votes cast at a duly called meeting of the members at which a quorum has been attained shall be binding upon all members for all purposes, except where a greater or different number of votes is expressly required by law or by any provision of the governing documents.

**3.6 Proxy Voting.** To the extent lawful, any Representative entitled to attend and vote at a members' meeting may establish his presence and cast his vote by proxy. A proxy shall be valid only for the specific

meeting for which originally given and any lawful adjournment of that meeting, and no proxy is valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the votes, specify the date, time and place of the meeting for which it is given, and the original must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof. Holders of proxies need not be members. No proxy shall be valid if it names more than one person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy.

3.7 Adjourned Meetings. Any duly called meeting of the members may be adjourned to be reconvened at a specific later time by vote of the majority of the voting interests present in person or by proxy, regardless of whether a quorum has been attained. When a meeting is adjourned it shall be necessary to announce to all those physically present, but it shall not be necessary to give notice to all those not present, in person or by proxy, of the time and place of its continuance. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance, provided a quorum is then present, in person or by proxy.

3.8 Order of Business. The order of business at members' meetings shall be substantially as follows:

- (A) Call of the roll or determination of quorum.
- (B) Reading or disposal of minutes of last members meeting
- (C) Reports of Officers
- (D) Reports of Committees
- (E) Unfinished Business
- (F) New Business
- (G) Adjournment

3.9 Minutes. Minutes of all meetings of members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by members or their authorized representatives and Board members at reasonable times and for a period of seven (7) years after the meeting. Minutes must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each director present at a board meeting must be recorded in the minutes.

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

4. BOARD OF DIRECTORS: The administration of the affairs of the Recreation Association shall be by a Board of Directors. All powers and duties granted to the Recreation Association by law, as modified and explained in the Governing Documents, shall be exercised by the Board, subject to approval or consent of the Parcel owners only when such is specifically required.

4.1 Number and Terms of Service. The number of Directors which shall constitute the whole Board of



Directors shall be three (3). The initial Directors shall be appointed by and shall serve at the pleasure of the Developer. At the Transition Meeting, and subsequently, five (5) Directors shall be elected by the members. At the Transition Meeting, three (3) candidates receiving the highest number of votes shall be elected to two (2) year terms, and the remaining two (2) candidates shall be elected to a one (1) year term. In the event that the number of candidates does not exceed the number of seats to be filled, or in the event of a tie, the candidates shall voluntarily agree on whom shall serve the longer initial terms or the Recreation Association shall conduct a "run-off" election. Thereafter, all directors shall serve two (2) year terms. In any subsequent election, a tie vote shall be broken by voluntary agreement or drawing lots between the candidates, or by a "run-off" election. A Director's term will end at the annual election at which his successor is to be duly elected, unless he sooner resigns, or is recalled as provided in 4.4 below.

**4.2 Qualifications.** Directors appointed by the Developer need not be members. Directors elected by the membership must be a member or the spouse of a member. If a unit is owned by a corporation, partnership, limited liability company or trust, any officer, director, manager, managing member, partner or trustee, or any spouse of such person, shall be eligible to be a Director.

**4.3 Vacancies on the Board.** If the office of any Director becomes vacant for any reason, other than recall by the membership at a membership meeting, a majority of the remaining Directors, though less than a quorum, shall promptly choose a successor to fill the remaining unexpired term except that vacancies of all Directors appointed by the Developers shall likewise be filled by the Developer. If the Recreation Association fails to fill vacancies on the Board sufficient to constitute a quorum, or if no member remains on the Board, the vacancy may be filled by the members (via a special meeting of the membership) or any member may apply to the Circuit Court for the appointment of a receiver to manage the Recreation Association's affairs, in the manner provided by Florida law.

**4.4 Removal of Directors.** Except for Directors appointed by the Developer, any or all Directors may be removed with or without cause by a majority vote of the entire membership, either by a written petition, or at any meeting called for that purpose, in the manner required by Section 720.303(10) of the Act.

**4.5 Organizational Meeting.** The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election. The organizational meeting may be held immediately following the election, in which case notice of the meeting may be effectuated by the Board existing prior to the election.

**4.6 Other Meetings.** Meetings of the Board may be held at such time and place in Collier or Lee County, Florida, as shall be determined from time to time by the President or a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone, telegram or other form of electronic transmission at least forty- eight (48) hours prior to the day named for such meeting. If notice is transmitted by facsimile, notice shall be effective if correctly directed to a number at which the Director has consented to receive notice. If notice is transmitted by electronic mail, notice shall be effective if correctly directed to an email address at which the Director has consented to receive notice.

**4.7 Notice to Owners.** A meeting of the Board of Directors occurs whenever a quorum of the Board gathers to conduct Recreation Association business. All meetings of the Board of Directors shall be open to members except for meetings between the Board and its attorney with respect to: proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege; or personnel matters. Members have the right to speak, for at least three (3) minutes, on any matter that is

placed on the Board meeting agenda by petition of the membership pursuant to Section 720.303(2)(d) of the Act. The Recreation Association may adopt reasonable, written rules expanding the rights of members to speak and governing the frequency, duration, and other manner of member statements, (including a sign-up sheet requirement), which rules must be consistent with the minimum requirements of Section 720.303(2)(b) of the Act. Notices of all Board meetings shall be posted conspicuously in Milano for at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency. In the event of an emergency meeting, any action taken shall be noticed and ratified at the next regular meeting of the Board. In the alternative to the posting requirements discussed above, notice of each Board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency. Notice of a Board meeting or committee meeting requiring notice may be provided by electronic transmission to those Representatives and members who have consented to receiving notice by electronic transmission. An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Sections 6.2 and 6.5 set forth special requirements applicable to the Board's adoption of the budget and levy of a special assessment.

4.8 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice to Directors shall be required.

4.9 Quorum of Directors. A quorum at a Board meeting shall exist when at least a majority of all Directors are present at a duly called meeting. Directors may participate in any meeting of the Board, by a conference telephone call or similar communicative arrangement whereby all persons present can hear all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting.

4.10 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum exists shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Governing Documents or by applicable statutes. Directors may not vote by proxy or by secret ballot at Board meetings, except that secret ballots may be used in the election of officers.

4.11 Adjourned Meetings. The majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date.

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

4.13 Compensation of Directors and Officers. Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.

4.14 Committees. The Board of Directors may appoint from time to time such standing or temporary committees as the Board deem necessary and convenient for the efficient and effective operation of the Recreation Association. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. If required by law, committee meetings shall be open to attendance by any Representative and member, and notice of committee meetings shall be posted in the same manner as

required in Section 4.7 above for Board meetings, except for such committee meetings between the committee and its attorney with respect to: proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege; or personnel matters.

## 5. OFFICERS:

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

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

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

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

5.5 Treasurer. The Treasurer shall be responsible for Recreation Association funds and securities, the keeping of full and accurate amounts of receipts and disbursements in books belonging to the Recreation Association, and the deposit of all monies and other valuable effects in the name and to the credit of the Recreation Association in such depositories as may be designated by the Board of Directors. He shall oversee the disbursement of the funds of the Recreation Association, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at the meetings of the Board, or whenever they may require it, an accounting of all transactions and of the financial condition of the Recreation Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated.

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

6.1 Depository. The Recreation Association shall maintain its funds in such financial institutions authorized to do business in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board.

6.2 Budget. The Board of Directors shall adopt a budget of common expenses for each fiscal year. A copy of the proposed budget and a notice stating the time, date and place of the meeting of the Board at which the budget will be adopted shall be provided to each Representative and member not less than fourteen (14) days prior to that meeting. The proposed budget shall reflect the estimate revenues and expenses for that year by categories, as well as the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the Recreation Association, the Developer, or another person.

6.3 Reserves for Capital Expenditures and Deferred Maintenance. In addition to annual operating expenses, the proposed budget may include reserve accounts for capital expenditures and deferred maintenance. Any reserves collected may be utilized in the manner the Board determines in its discretion, unless the reserves are specifically classified as "restricted reserves" in which case those funds and any interest thereon shall be utilized only for their intended, restricted purpose, unless a majority of the Representative present, in person or by proxy, at a meeting called for such purpose, vote to utilize "restricted reserves" for other than the intended, restricted purpose.

6.4 Assessments. Regular annual assessments based on the adopted budget shall be paid either monthly, or quarterly, as determined by the Board. Failure to send or receive notice of assessments shall not excuse the obligation to pay. If an annual budget has not been adopted at the time the first installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last installment and shall be continued at such rate until a budget is adopted and pro rata assessments are calculated, at which time any overage or shortage shall be added or subtracted from each unit's next due installment.

6.5 Special Assessments. Special assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted, or non-recurring expenses. Special assessments are due on the day specified in the resolution of the Board approving such assessments. Subsequent to transition from Developer control of the Board of Directors, no special assessment shall be levied unless it is first approved by Representatives representing two-thirds (2/3) of the voting interests. A special assessment may not be considered at a Board meeting unless a written notice of the meeting is provided to each Representative and member at least fourteen (14) days before the meeting, which notice includes a statement that a special assessment will be considered at the meeting and the nature of the special assessment. Written notice of any meeting at which special assessments will be considered must be mailed, delivered, or electronically transmitted (to the extent permitted by law) to the Representatives and members and posted conspicuously in Milano or broadcast on closed-circuit television not less than fourteen (14) days before the meeting.

6.6 Fidelity Bonds. The Treasurer, and all other officers who are authorized to sign checks, and all other persons having access to or control of Recreation Association funds, shall be bonded in such amounts as may be required by law or otherwise determined by the Board of Directors. The premiums on such bonds

shall be a common expense.

6.7 Financial Reporting. Within 60 days following the end of the fiscal year, the Board of Directors shall mail or furnish by personal delivery to each Representative and member a financial report for the previous 12 months. The financial report shall be prepared in accordance with Section 720.303(7) of the Act.

6.8 Fiscal Year. The fiscal year shall be the calendar year, unless modified by the Board of Directors.

7. RULES AND REGULATIONS: USE RESTRICTIONS: The Board of Directors may, from time to time, adopt and amend rules and regulations subject to any limits contained in the Declaration. Written notice of any meeting at which rules that regulate the use of Parcels may be adopted, amended, or revoked must be mailed, delivered, or electronically transmitted (to the extent permitted by law) to the Representatives and members and posted conspicuously in Milano or broadcast on closed-circuit television not less than fourteen (14) days before the meeting. A written notice concerning changes to the rules that regulate the use of Parcels must include a statement that changes to the rules regarding the use of Parcels will be considered at the meeting. Copies of such rules and regulations shall be furnished to each Parcel owner. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of health, happiness and peace of mind of the Parcel owners and uniformly applied and enforced. Subsequent to transition, and as long as Developer owns a Parcel, no new or amended rule shall be effective unless Developer grants its approval in writing, which approval may be denied in Developer's discretion.

8. COMPLIANCE AND DEFAULT: REMEDIES: In addition to the remedies provided elsewhere in the Governing Documents, the following provisions shall apply:

8.1 Obligations of members; Remedies At Law Or In Equity; Levy of Fines and Suspension of Use Rights.

(1) Each member and the member's tenants, guests and invitees, are governed by, and must comply with Chapter 720, Florida Statutes, and the Governing Documents. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the Recreation Association or by any member against:

- (A) The Recreation Association;
- (B) A member;
- (C) Any tenants, guests, or invitees occupying a parcel or using the Recreation Common Area; and
- (D) A Neighborhood Association.

The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and costs. This section does not deprive any person of any other available right or remedy. Certain disputes must be submitted to dispute resolution procedures conducted by the Division of Florida Land Sales, Condominiums and Mobile Homes ("Division") as more particularly set forth in Section 720.311 of the Act.

(2) The Recreation Association may suspend, for a reasonable period of time, the rights of a member or a member's, tenants, guests or invitees to use the Recreation Common Area and may levy

reasonable fines against Parcel owners, in those cases in which Owners commit violations of Florida law governing homeowners' associations, the provisions of the Governing Documents, or condone such violations by their family members, tenants, guests, invitees. The fines shall be in an amount deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amounts allowed by law. The procedure for suspending use rights and imposing such fines shall be as follows:

- (A) A fine or suspension may not be imposed without notice of at least fourteen (14) days to the person sought to be fined or suspended and opportunity for hearing before a committee of at least three members appointed by the Board who are not officers, directors, or employees of the Recreation Association, or the spouse, parent, child, brother, sister of an officer, director or employee, and the notice shall include:
  - (1) A statement of the date, time and place of the hearing;
  - (2) A statement of the provisions of Florida law and/or the Governing Documents which have allegedly been violated; and,
  - (3) A short and plain statement of the matters asserted by the Recreation Association.
- (B) The party against whom the fine may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Recreation Association. The Parcel Owner shall be the party ultimately responsible for payment of a fine, regardless of whether the fine relates to conduct by a tenant, family member, invitee or guest. Fines shall not be secured by a lien against the Parcel, unless permitted by the Act.
- (C) If the Committee, by majority vote, does not approve the fine or suspension, it may not be imposed.
- (D) The Recreation Association may suspend Recreation Common Area use rights and levy fines because of the failure of the member to pay assessments or other charges when due in the manner set forth above, except that the Board of Directors may do so without the need for involvement of a Committee of members other than the Board.
- (E) Suspension of Recreation Common Area use rights shall not impair the right of an Owner or tenant of a Parcel to have vehicular and pedestrian ingress to and egress from the Parcel, including, but not limited to, the right to park.
- (F) The Recreation Association may not suspend the voting rights of a member.

8.2 Availability of Remedies. Each member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Recreation Association and regardless of the availability of other legal remedies. It is the intent of all members to give the Recreation Association methods and procedures which will enable it to

operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy Milano free from unreasonable restraint and annoyance.

9. AMENDMENT OF BYLAWS: Amendments to these Bylaws shall be proposed and adopted in the following manner:

9.1 Proposal. Amendments to these Bylaws may be proposed by the Board of Directors or by written petition to the Board signed by the Representatives entitled to cast at least one-fourth (1/4) of the voting interests.

9.2 Procedure. Upon any amendment or amendments to these Bylaws being proposed by said Board or Representatives such proposed amendment or amendments shall be submitted to a vote of the Representatives not later than the next annual meeting for which proper notice can still be given.

9.3 Vote Required. Prior to transition of control of the Board of Directors from the Developer of Milano, amendments shall be adopted by the Developer. Subsequent to transition of control of the Board of Directors, a proposed amendment to these Bylaws shall be adopted if it is approved by the Representatives representing at least two-thirds (2/3rds) of the voting interests at any annual or special meeting, provided that notice of the proposed amendment has been given to the members in accordance with law. As long as Developer owns a Parcel in Milano, an amendment to the Bylaws shall not be effective without the prior written consent of Developer, which consent may be denied in Developer's discretion, provided, further, that regardless of whether Developer owns a Parcel, no amendment shall be effective if it affects Developer's rights or alters a provision herein made for Developer's benefit. Amendment of these Bylaws requires prior written approval of HUD/VA as long as there is a Class B membership.

9.4 Certificate; Recording. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Bylaws, which certificate shall be in the form required by law and shall be executed by the President or Vice-President with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Collier County, Florida.

## 10. MISCELLANEOUS:

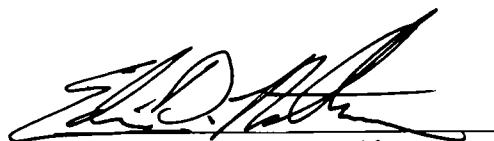
10.1 Gender. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

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

10.3 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration or Articles of Incorporation, the provisions of the Declaration or Articles of Incorporation shall prevail over the provisions of these Bylaws, and the Declaration shall prevail over the Articles.

OR: 3644 PG: 2476

The foregoing were adopted as the first Bylaws of Milano Recreation Association, Inc. on this  
7<sup>th</sup> day of September, 2004.



Edwin D. Stackhouse, President

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070479.0044







**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
ENVIRONMENTAL RESOURCE  
STANDARD GENERAL PERMIT NO. 11-02226-P-02  
DATE ISSUED: July 29, 2004**

Form #0941  
08/95

**PERMITTEE:** PULTE HOME CORP - SW FLORIDA  
6000 LIVINGSTON ROAD NORTH  
NAPLES, FL 34110

**PROJECT DESCRIPTION:** This application is a request for Modification of an Environmental Resource Permit authorizing construction and operation of a surface water management system serving 54.82 acres of residential development known as Milano, part of Royal Palm Academy, with discharge into De La Sol surface water management system and the wetland system to the south.

**PROJECT LOCATION:** COLLIER COUNTY, SEC 13 TWP 48S RGE 25E

**PERMIT DURATION:** See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Notice of Intent for Permit Application No. 040301-18, dated March 1, 2004. This action is taken pursuant to Rule 40E-1.603 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

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

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 General Conditions (See Pages: 2 - 4 of 6 ).
3. the attached 20 Special Conditions (See Pages: 5 - 6 of 6 ) and
4. the attached 8 Exhibit(s).

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

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 29th day of July, 2004, in accordance with Section 120.60(3), Florida Statutes.

BY: Jacqueline Rippe  
Jacqueline Rippe, P.E.  
Director

Lower West Coast Service Center

Certified mail number 7003 0500 0004 0204 4641

Page 1 of 6

EXHIBIT D

OR: 3644 PG: 2477

**GENERAL CONDITIONS**

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a professional engineer or other individual authorized by law, utilizing the supplied Environmental Resource/Surface Water Management Permit Construction Completion/Certification Form Number 0881A, or Environmental Resource/Surface Water Management Permit Construction Completion Certification - For Projects Permitted prior to October 3, 1995 Form No. 0881B, incorporated by reference in Rule 40E-1.659, F.A.C. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. All surveyed dimensions and elevations shall be certified by a registered surveyor.
7. The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and

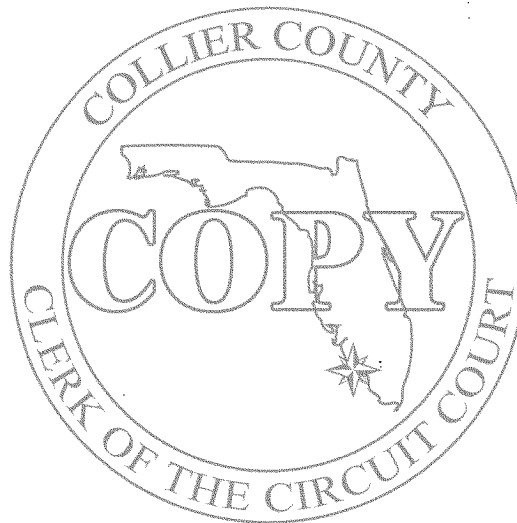
**GENERAL CONDITIONS**

maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..
12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the State, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding, unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.
16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of

**GENERAL CONDITIONS**

- ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.
17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
  18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
  19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.



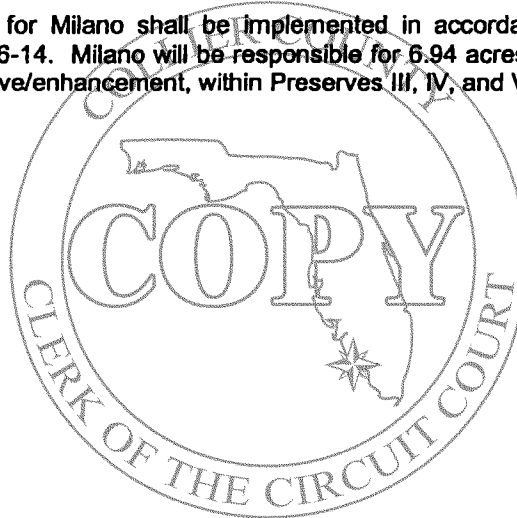
**SPECIAL CONDITIONS**

1. The construction phase of this permit shall expire on July 29, 2009.
2. Operation of the surface water management system shall be the responsibility of MILANO RECREATION ASSOCIATION, INC.. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.
3. Discharge Facilities: Through previously permitted facilities.
4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Lake side slopes shall be no steeper than 4:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth, unless shown on the plans.
8. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
9. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
10. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
11. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
12. Minimum building floor elevation:  
Basin A: 16.8 feet NGVD.  
Basins B and C: 16.0 feet NGVD.
13. Minimum road crown elevation:  
  
Basin A: 15.3 feet NGVD.  
Basins B and C: 14.5 feet NGVD.
14. Minimum parking lot elevation:  
  
Basin A: 14.3 feet NGVD.  
Basins B and C: 13.1 feet NGVD.
15. The Urban Stormwater Management Program (Exhibit Nos.6.0-6.5) shall be included as part of the

**SPECIAL CONDITIONS**

(Homeowners documents/Articles of incorporation/Property Owners association documents) prior to being recorded. Prior to recording of the Home Association Documents the amended documents shall be submitted to the Enforcement and Compliance section at the Fort Myers Lower West Coast Service Center for approval.

16. The Permittee shall utilize the criteria contained in the Construction Pollution Prevention Plan (Exhibit Nos. 7.0-7.10) and on the applicable approved construction drawings for the duration of the projects construction activities.
17. Exhibits Nos. 6.0-6.5 and 7.0-7.10 incorporated by reference and shall be retained in the permit file.
18. All special conditions and exhibits previously stipulated by permit number 11-02226-P remain in effect unless otherwise revised and shall apply to this modification.
19. Drainage plans and detail sheets 3 through 8 of 8, by Q. Grady Minor and Associates, P.A., signed and sealed on April 23, 2004 by Norman J. Trebilcock, P.E., have been included in this permit by reference (please see permit file).
20. A mitigation program for Milano shall be implemented in accordance with Exhibit(s) 10-18 of permit Application No. 020806-14. Milano will be responsible for 6.94 acres of wetland enhancement and 0.712 acres of upland preserve/enhancement, within Preserves III, IV, and V.



# Royal Palm Academy

## MITIGATION PLAN

EXHIBIT

E**April 24, 2003**

### I. INTRODUCTION

The following plan is proposed as mitigation for wetland impacts resulting from construction of the Royal Palm Academy located in Section 13, Township 48 South, Range 25 East, Collier County. This plan will be implemented concurrently with the development of the science program at the school. The current strategy is to utilize students during implementation of the mitigation plan over the next five years. As such, the mitigation plan will provide immeasurable benefits to the school curriculum, adequately satisfy the public interest criteria and improve the natural resources of the area.

The project construction will impact 39.97 acres of South Florida Water Management District (SFWMD) and U.S. Army Corps of Engineers (USACOE) jurisdictional wetlands (Figure 1). The applicant proposes to mitigate for these impacts by onsite enhancement of 41.70 acres of wetlands and creation of a 5.31-acre herbaceous marsh. The enhanced and created wetlands will be preserved onsite.

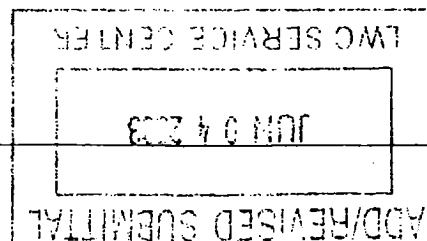
The mitigation will be conducted both in advance of, and concurrently with, the construction of the school facility. The preservation areas will be placed under a conservation easement.

### II. AVOIDANCE AND MINIMIZATION

The site selection process involved identifying a site that afforded easy access from Interstate 75 and that reduced impacts to environmentally sensitive areas. The proposed project site has extensive infestation of exotic/nuisance species throughout most of the parcel. The site plans were developed to avoid the higher quality wetlands and to minimize wetland impacts. The residential portion of the project site contains the higher quality wetlands, which will be enhanced and preserved. Additionally, the project design includes rehydration of these wetlands, which will significantly improve the hydrology of the systems.

**EXHIBIT**

124



020806-14#

### III. METHODOLOGY

The mitigation plan consists of enhancing and preserving 41.70 acres of onsite wetlands and creation of 5.31 acres of herbaceous marsh. The existing and proposed habitat types are provided in Table 1 for the mitigation areas. The current site condition is highly disturbed with extensive infestation of exotic species, such as melaleuca (*Melaleuca quinquenervia*) and Brazilian pepper (*Schinus terebinthifolius*). The Cocohatchee Canal was excavated when Immokalee Road was constructed in the 1950's. The canal channelized the water that previously sheet-flowed from the northeast and essentially drained much of the surrounding area. The Florida Power & Light power line easement and the I-75 right-of-way have also affected the hydrology of the area. Another significant hydrological change occurred with the construction of the Pelican Bay Improvement District wellfield.

All of these disturbance factors have affected the hydrology of the site, resulting in dehydrated wetlands, which are converting to exotic vegetation-dominated uplands. The highest quality wetlands on the property will be enhanced and preserved. The mitigation areas are summarized in the following table.

Table 1 Existing and Proposed Habitat Types Within Mitigation Areas					
Mitigation Area #	Existing Habitat (FLUCFCS)	Wetland Enhancement and Preservation		Wetland Creation and Preservation	
		Area (acres)	Proposed Type	Area (acres)	Proposed Type
Wetland 1	619/621	6.97	621		
Wetland 2	619	22.35	621		
Wetland 3	619/621	5.44	624		
Wetland 5	621	4.54	621		
Wetland 6	624	0.30	624		
Wetland 7	621	2.10	621		
Upland 1	424			5.31	641
Totals		41.7		5.31	

#### Wetland Mitigation Area #1

Wetland Mitigation Area #1 is located in the southern portion of the northwestern side of the project site. This area consists of a mixture of slash pine (*Pinus elliottii*) and stressed cypress (*Taxodium ascendens*) trees with dense melaleuca infestation (melaleuca coverage of 50-75% in this area). The drainage ditch and stormwater pond for the Imperial Golf Estates subdivision has affected the hydrology of this wetland. The proposed enhancement involves a combination of mechanical and hand removal of exotic vegetation followed by planting of native wetland species, as listed in the following table (Table 2). The melaleuca and Brazilian pepper will be removed (cut within 12 inches of the ground elevation) using mechanical means, wherever possible. In areas that impede mechanical equipment, the plants will be removed by hand. In all areas, an approved herbicide will be applied to the remaining stumps. Additionally, the area will be rehydrated through routing of treated stormwater from the north (offsite properties).

**EXHIBIT**

Royal Palm Academy  
Mitigation Plan - April 24, 2003

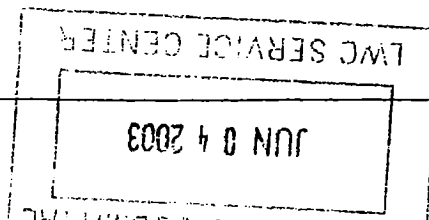




Table 2 Wetland Planting Specifications					
Common Name/Scientific Name	Mitigation Area	Maximum Spacing	Minimum Height	Container Size	Total Number of Plants
Pond cypress/ <i>Taxodium ascendens</i>	1-7	25'	3'	1 gallon	3700
Slash pine/ <i>Pinus elliotii</i>	1-7	25'	3'	1 gallon	3700
Dahoon holly/ <i>Ilex cassine</i>	1-7	30'	3'	1 gallon	2600
Arrowhead/ <i>Sagittaria</i> sp.	U-1	8'	1'	1 gallon	4086
Pickereelweed/ <i>Pontederia cordata</i>	U-1	8'	1'	1 gallon	4086
Softrush/ <i>Juncus effusus</i>	U-1	8'	1'	1 gallon	4086

### Wetland Mitigation Area #2

Mitigation Area #2 is located in the northwestern portion of the property north of Wetland Mitigation Area #1. This area consists of a mixture of slash pine and stressed cypress trees with dense melaleuca infestation (melaleuca coverage of 75-100% in this area). The drainage ditch and stormwater pond for the Imperial Golf Estates subdivision has affected the hydrology of this wetland. The proposed enhancement involves a combination of mechanical and hand removal of exotic vegetation followed by planting of native wetland species, as listed in the Table 2. The melaleuca and Brazilian pepper will be removed (cut within 12 inches of the ground elevation) using mechanical means, wherever possible. In areas that impede mechanical equipment, the plants will be removed by hand. In all areas, an approved herbicide will be applied to the remaining stumps. Additionally, the area will be rehydrated through routing of treated stormwater from the north (offsite properties).

### Wetland Mitigation Area #3

Mitigation Area #3 is located in the central portion of the property north of the vacant, undeveloped parcel. This area contains a mixture of slash pine, cypress and cabbage palm (*Sabal palmetto*) with melaleuca coverage of 50-75 percent. The proposed enhancement involves a combination of mechanical and hand removal of nuisance species, followed by supplemental planting of native wetland species, as specified in Table 2. Routing of treated stormwater will also rehydrate this area.

### Wetland Mitigation Area #5

This area consists primarily of cypress with scattered cabbage palms. Of all the onsite wetlands, this wetland is in the best condition due to lesser coverage by melaleuca, which is estimated at 50 percent. Removal of the exotic species will occur in the same manner as specified for Mitigation Areas #1-3. Supplemental planting of wetland species, as

described in Table 2, will occur in this area following removal of exotic vegetation. Routing stormwater will rehydrate this wetland.

#### Wetland Mitigation Area #6

Mitigation Area #6 is located along the eastern portion of the property adjacent to the powerline easement. This area consists primarily of cypress with scattered cabbage palms and 50-75% coverage of melaleuca. The exotic vegetation will be removed utilizing the same methodology specified for Mitigation Areas #1-5. Supplemental planting of wetland species, as described in Table 2, will occur after exotic species removal. The project design includes routing stormwater to rehydrate this wetland.

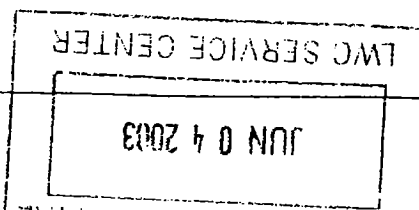
#### Wetland Mitigation Area #7

Mitigation Area #7 is located in the extreme southeastern corner of the property. This area includes primarily cypress and cabbage palm with 50-60% infestation of exotic species. The exotic species will be removed and supplemental planting will be conducted, in accordance with the aforementioned procedures. As with the previous areas, stormwater will be used to rehydrate this wetland.

#### Upland Mitigation Area #1

The upland mitigation area #1 is located in the northwestern portion of the property. This area is primarily a mixed pine system with melaleuca coverage of 75-100%. This area will be converted to an herbaceous marsh and planted with species as listed in Table 2. Creation of this herbaceous system is expected to provide habitat for a variety of wetland-dependent wildlife species, such as reptiles, amphibians and birds. An upland buffer will be retained around the created marsh. Additionally, the marsh will allow for connectivity and appropriate interface of the offsite flows and the preserved wetlands.

EXHIBIT 12-D



## IV. WETLAND MITIGATION ANALYSIS

### A. South Florida Water Management District

The proposed project will impact 39.97 acres of low quality SFWMD jurisdictional wetlands. The proposed wetland impact areas have coverage of 50 to 90 percent melaleuca, thus qualifying under the melaleuca mitigation ratio, as described in the Basis of Review. The lowest rating of 0.70 percent for wetland enhancement was selected from the rule due to the following reasons: 1) the existing wetlands are very low quality due to 50 to 100 percent melaleuca coverage and severely degraded hydrology in the area; 2) a mean WRAP score of .47 was calculated; and, 3) most of the onsite wetland enhancement areas are similarly affected by melaleuca coverage and hydrological alterations. The WRAP datasheets are included in this plan.

Using the 0.70 ratio (39.97 acres of impacts X .70) results in a needed mitigation acreage value of 27.98, which will be mitigated onsite. A total of 41.7 acres of wetlands will be enhanced and 5.31 acres of wetlands will be created, for a total onsite wetland credit of 47.01 acres. Thus the total onsite mitigation credit is 47.01 acres. This amount exceeds the proposed 39.97 acres of proposed wetland impacts. Therefore, the onsite mitigation plan is sufficient and no offsite mitigation is necessary.

### B. U.S. Army Corps of Engineers

A pre-project vs. post-project WRAP analysis was conducted on the Royal Palm Academy site using the WRAP datasheets, which are attached. The analysis results included a total pre-project WRAP score of 40.65 credits/functional units and a total post-project WRAP score of 52.12 credits. Since the proposed mitigation plan provides sufficient lift to offset the wetland function lost due to the proposed project, the onsite mitigation plan is considered adequate and no offsite mitigation is required.

## V. MITIGATION SUCCESS CRITERIA

The mitigation shall be considered successful when the mitigation areas have 80% survival of planted tree, shrub and herbaceous species and 80% coverage by desirable wetland vegetation (obligate and facultative wetland species). To be deemed successful, exotic and nuisance species shall be no greater than five percent coverage of the total mitigation areas.

## VI. MONITORING

The monitoring will occur for a period of five years or until the SFWMD and USACOE determine that the success criteria are met. ~~Baseline, time-zero and five annual~~

monitoring reports will be submitted to the SFWMD. Vegetation, wildlife, rainfall and wetland water level observations will be recorded for all monitoring events. Rainfall data will be obtained and summarized from the closest rain gauge maintained by the SFWMD. The pre-construction conditions of the project site will be documented in the baseline monitoring report. Conditions immediately following wetland enhancement and/or restoration will be described in the time-zero report. The annual monitoring reports will include the level of success and any specific actions necessary to improve conditions within the project area. The methodology outlined below will be used for the monitoring events.

#### A. Vegetation Monitoring

Monitoring of the wetlands will occur prior to and following enhancement and restoration activities. Sampling in wetland enhancement and restoration areas will involve a quantitative analysis of tree/shrub and herbaceous strata.

To facilitate an intensive, accurate and repeatable sampling program at the herbaceous level within the wetland enhancement areas, the point frame method will be utilized (Bonham 1989). Five point quadrats will be sampled along each sampling transect. Each point quadrat consists of a one-meter square wire grid with 25 cross points. Any plant species, including bare ground, that is observed below a cross point will be recorded. The percent cover will be computed and discussed for each species identified. Each cross point represents four percent of the square meter. Surface water depths, if applicable, will be documented at each quadrat.

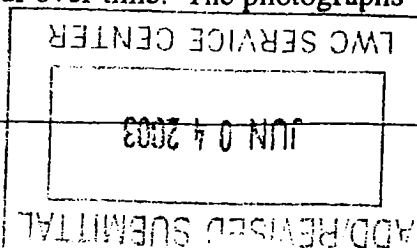
The establishment of tree-shrub study plots will be used to determine the percent coverage by the canopy and sub-canopy plant species and percent survivorship of the planted slash pine and bald cypress within the wetland enhancement areas. The percent of coverage will be determined by species for each strata within the plot. Woody vegetation with a diameter at breast height (DBH) greater than or equal to four inches is classified as a tree whereas shrubs are defined as, everything less than four inches in DBH and greater than 3.2 feet in height. The number of planted tree seedlings within plots will be noted and will be used to determine future survivorship percentages.

#### B. Wildlife Monitoring

During all monitoring events, qualified ecologists will conduct observations of wildlife species, noting any incidental sightings in the reports. Additionally, evidence of wildlife (nests, burrows, scat, etc.) will also be documented in the reports.

#### C. Photographic Documentation

The establishment of permanent photograph stations in each monitoring area will allow for documentation of the physical condition and appearance of the area as well as providing a means to track changes that occur over time. The photographs will be included in each report.



**D. Rainfall and Staff Gauge Recordings**

The wetland preserve area will contain two staff gauges: one in the northwestern portion of the site and one in the southeastern portion of the site. Collection of data will occur weekly during the wet season (typically June through mid-October) and monthly during the rest of the year. Water levels will be recorded in conjunction with available rainfall data for the area and will be included in the monitoring reports.

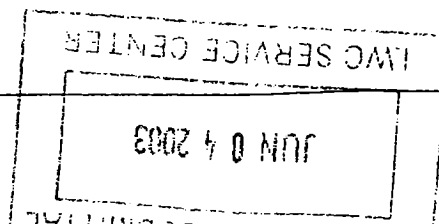
**VII. MONITORING REPORTS**

Monitoring reports, which include the success of the mitigation plan and general site conditions, will be submitted to the SFWMD and USACOE for five years or until success criteria are achieved. The baseline wetland monitoring report for the mitigation areas will be submitted to the SFWMD within 60 days of permit issuance. Within 60 days of completion of exotic plant removal and supplemental plantings, the time-zero monitoring report will be submitted. The following information will be included in the monitoring reports:

- ✓ Brief description of mitigation and maintenance work performed since the previous report along with a discussion of any modifications to the mitigation or maintenance program.
- ✓ Brief description of anticipated mitigation and maintenance work to be conducted over the next year.
- ✓ Summary of staff gauge and rainfall data collected within wetland preservation areas on the project site.
- ✓ Results of quantitative vegetation monitoring conducted in the enhanced wetlands as well as a list of observed wildlife species.
- ✓ Photographs taken at fixed-point photo stations within the enhanced wetland areas.

**VIII. CONSERVATION EASEMENT**

A conservation easement will be recorded within six months of receipt of all environmental permits. The conservation easement will ensure that the onsite mitigation areas will remain in a natural state in perpetuity. Dredging, filling, land clearing, agriculture activities, or other construction work except for those activities described in this mitigation plan and allowed under the easement, will not disturb the preserved mitigation areas.



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## IX. MONITORING AND MAINTENANCE SCHEDULE

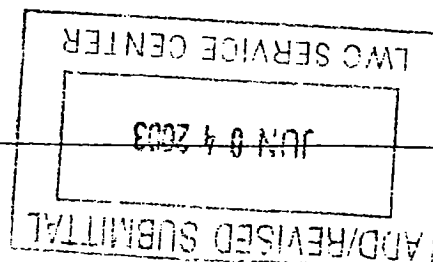
Maintenance of the mitigation areas will be conducted in perpetuity to ensure success of the system as a viable wetland. The five-year monitoring plan has been designed in order to ensure the future success of the onsite mitigation plan. The residential portion of the project is anticipated to start construction within one year of the date of permit issuance. Construction of the school is expected to start within four to five years of the date of permit issuance. However, the mitigation portion of the project within the northwest and west side of the project site will begin prior to construction of the school facilities. Exotic vegetation removal and subsequent planting of native species will commence within one year of permit issuance.

The table below outlines the anticipated completion date schedule for the monitoring and maintenance. These dates may require adjustment based on date of permit issuance and construction completion.

Approximate Monitoring and Maintenance Schedule	
Proposed Completion Date	Activity
Within 6 months of permit issuance	Record Conservation Easement
Within 1 year of permit issuance	Baseline Monitoring
Within 1 year of permit issuance	Mitigation Construction
Within 1 year of permit issuance	Exotic vegetation removal
Within 1 year of permit issuance	Time Zero Monitoring Event
Within 2 years of permit issuance	Exotic Vegetation Species Maintenance
Within 2 years of permit issuance	First Monitoring Event
Within 3 years of permit issuance	Exotic Vegetation Species Maintenance
Within 3 years of permit issuance	Second Mentoring Event
Within 4 years of permit issuance	Third Monitoring Event
Within 5 years of permit issuance	Fourth Monitoring Event
Within 6 years of permit issuance	Fifth Monitoring Event

Additionally, boardwalks may be constructed in the wetland areas (to be included in the Conservation Easement but subject to receipt of the necessary permits) to provide an interactive educational experience for the students enrolled at Royal Palm Academy. The students may be invited to accompany the biologists during monitoring efforts.

EXHIBIT 127



## URBAN STORMWATER MANAGEMENT PROGRAM

### 1.0 Introduction

This document provides details of the Urban Stormwater Management Program for the Milano in S13/T48S/R25E, Collier County, Florida. This Plan discusses non-structural controls, intended to improve the quality of stormwater runoff by reducing the generation and accumulation of potential stormwater runoff contaminants at or near the respective sources for each constituent, along with significant structural components of the primary stormwater treatment system. Although many of the methodologies and procedures outlined in this document are general Best Management Practices (BMP's) which can be useful in attenuating pollutants in many types of urbanized settings, the implementation of these practices has been optimized, to the maximum extent possible, to reflect the unique character of the Milano project and the surrounding hydrologic features.

Pollution prevention guidelines are provided for the areas of (1) nutrient and pesticide management; (2) street sweeping; (3) solid waste management; (4) operation and maintenance of the stormwater management and treatment system; (5) routine water quality testing; and (6) construction activities. A discussion of each of these activities is given in the following sections.

### 2.0 Nutrient and Pesticide Management

Nutrient and pesticide management consists of a series of practices designed to manage the use of fertilizers and pesticides so as to minimize loss of these compounds into stormwater runoff and the resulting water quality impacts on adjacent waterbodies. Implementation of a management plan will also maximize the effectiveness of the nutrients and pesticides that are applied.

Each homeowner must commit themselves to the practice of responsible and careful landscape design and maintenance of each lot to prevent contamination of surface waters. The guidelines included in this section are intended to help homeowners make educated environmental choices regarding the maintenance of individual yards within the community. These maintenance and management guidelines are meant to promote an attractive neighborhood that preserves the health of adjacent waterways and environmental features.

#### 2.1 General Requirements

A landscape plan must be developed for each residence. The plan must be comprehensive in nature and follow the landscape design guidelines established by the Homeowners Association and must promote revegetation of each lot as quickly as possible.

Commercial applicators of chemical lawn products must register with the Homeowners Association annually and provide a copy of their current occupational license, proof of business liability insurance, and proof of compliance with applicable education and licensing requirements. Individual employees working under the direction of a licensed commercial applicator are exempt from the educational requirements.

Only registered commercial applicators and individual lot owners are permitted to apply chemicals within the property on a private lot. All chemical products must be used in accordance with the manufacturer's recommendations. The application of any chemical product within five (5) feet of any surface water including but not limited to ponds, lakes, drainage ditches or canals, is prohibited. The use of any chemical product in a manner that will allow airborne or waterborne entry of such products into surface water is prohibited. This rule shall not apply to the use of chemical agents, by certified lake management specialists, for the control of algae and vegetation within the stormwater lakes or ponds.

## **2.2 Nutrient Management Program**

Management and application of nutrients and fertilizers in the Milano project will adhere to the following guidelines:

- A. All fertilizers shall be stored in a dry storage area protected from rainfall and ponding.
- B. No fertilizer containing in excess of 2% phosphate/phosphorus ( $P_2O_5$ ) per guaranteed analysis label (as defined by Chapter 576, Florida Statutes) shall be applied to turf grass unless justified by a soil test.
- C. Fertilizer containing in excess of 2% phosphate/phosphorus ( $P_2O_5$ ) per guaranteed analysis label shall not be applied within 5 feet of the edge of water or within 5 feet of a drainage facility.
- D. All fertilizer shall be applied such that spreading of fertilizer on all impervious surfaces is minimized.
- E. Liquid fertilizers containing in excess of 2% phosphate/phosphorus ( $P_2O_5$ ) per guaranteed analysis label shall not be applied through an irrigation system within 10 feet of the edge of water or within 10 feet of a drainage facility.
- F. Liquid fertilizers containing in excess of 2% phosphate/phosphorus ( $P_2O_5$ ) per guaranteed analysis label shall not be applied through high or medium mist application or directed spray application within 10 feet of the edge of water or within 10 feet of a drainage facility.

## **2.3 Pest Management Program**

Proper maintenance of plants and turf areas will minimize the ability of pests to successfully attack landscaping. Several general guidelines follow:

- A. Apply fertilizer and water only when needed and in moderate amounts. Excessive amounts of either can cause rapid growth that is attractive to insects and disease.
- B. Mow St. Augustine grass to a height of 3-4 inches. If cut shorter, the plants may become stressed and more vulnerable to pest infestation. Each mowing should remove no more than one-third of the leaf blade, and those cuttings should remain on the lawn to decompose.
- C. It is recommended that pesticides, fungicides, and herbicides be used only in response to a specific problem and in the manner and amount recommended by the manufacturer to address the specific problem. Broad application of pesticides, fungicides and herbicides as a preventative measure is strongly discouraged.



The use of pesticides, fungicides, or herbicides is limited to products that meet the following criteria:

- A. Must be consistent with the USDA-NRCS Soil Rating for Selecting Pesticides
- B. Must have the minimum potential for leaching into groundwater or loss from runoff
- C. Products must be EPA-approved
- D. The half-life of products used shall not exceed seventy (70) days

### **3.0 Street Sweeping**

This practice involves sweeping and vacuuming the primary streets to remove dry weather accumulation of pollutants, especially particulate matter, before wash-off of these pollutants can occur during a storm event. This practice reduces the potential for pollution impacts on receiving waterbodies by removing particulate matter and associated chemical constituents. Although street cleaning operations are frequently conducted primarily for aesthetic purposes, the primary objective of the street sweeping program for the Milano project is to improve the quality of stormwater runoff generated from impervious traffic areas. Street sweeping activities can be particularly effective during periods of high leaf fall by removing solid leaf material and the associated nutrient loadings from roadside areas where they could easily become transported within stormwater flow.

Street sweeping operations will be performed in the Milano project at a minimum frequency of one event every other month. A licensed vendor using a vacuum-type sweeping device will perform all street sweeping activities. Sweeping activities during each event will include all primary street surfaces. Disposal of the collected solid residual will be the responsibility of the street sweeping vendor.

### **4.0 Solid Waste Management**

In general, solid waste management involves issues related to the management and handling of urban refuse, litter and leaves that will minimize the impact of these constituents as water pollutants.

Maintenance of adequate sanitary facilities for temporarily storing refuse on private premises prior to collection is considered the responsibility of the individual homeowner. Local requirements for refuse collection will be brought to the attention of every homeowner at closing for the sale of the property. Information will be distributed as necessary stating specifications for containers, separation of waste by type, where to place containers prior to collection, and established collection schedules.

Fallen tree leaves and other vegetation, along with grass clippings, may become direct water pollutants when they are allowed to accumulate in swales and street gutters. All homeowners will receive periodic educational materials that address proper disposal of leaves and other vegetation to minimize water quality impacts.

## **5.0 Stormwater Management and Treatment System**

The stormwater management system for the Milano Project is designed to maximize the attenuation of stormwater generated pollutants prior to discharge to the off-site wetland systems. Operational details and maintenance requirements of the various system components are given in the following sections.

### **5.1 Wet Detention Lakes and Lake Interconnect Pipes**

The basic element of the stormwater management system consists of a series of interconnected wet detention ponds that provide stormwater treatment through a variety of physical, biological, and chemical processes. A wet detention pond acts similar to a natural lake by temporarily detaining stormwater runoff, allowing opportunities for treatment processes to occur, prior to slow controlled discharge of the treated water through the outfall structure. Pollutant removal processes in wet detention systems occur during the quiescent period between storm events. Significant removal processes include gravity settling of particulate matter; biological uptake of nutrients and other ions by aquatic plants, algae and microorganisms; along with natural chemical flocculation and complexation processes.

Maintenance of the wet detention ponds will consist of an annual inspection. During each annual inspection, the following items will be reviewed and corrected as necessary:

- A. Inspect the outfall structure and orifices to ensure free-flowing conditions and overall engineering stability of the outfall system.
- B. Review the banks of the lakes and canals to ensure proper side slope stabilization and inspect for signs of excessive seepage that may indicate areas of excessive groundwater flow and possible subsurface channeling.
- C. Physically evaluate each of the lakes and canals for evidence of excessive sediment accumulation or erosion.
- D. Inspect the planted aquatic vegetation in the littoral zone to ensure that the desired vegetation species, percent coverage, and density are maintained.

At the completion of the inspections, a written inspection report will be prepared, listing any deficiencies that need to be addressed or corrected by the Homeowners Association.

### **5.2 Stormwater Inlets, Pipes and Culverts**

The grates should be unobstructed and the bottom, inside the inlet, should be clean. Check for any accumulation of sediment, trash such as garbage bags, or debris in the culverts connecting these inlets. Flushing out with a high-pressure hose may clean some sediment. Any noted blockage (due to a possible obstruction, or broken pipe, etc.) should prompt further investigation. Crushed or corroded culverts should be replaced with new ones of the same size.

### **5.3 Swales and Grassed Water Storage Areas**

These provide for conveyance and/or above-ground (or surface) storage of stormwater. With age, these areas usually fill in with vegetation and sediment. Swales may need to be regraded and/or revegetated. It is a good idea to compare the existing slope and dimensions of the swale with the permitted design plans prior to the removal of excess sediment or regrading. Areas that show erosion should be stabilized with appropriate material such as sod, planting, rock, sand bags, or other synthetic geotextile material.

Regular mowing of grass swales is essential. These areas also improve water quality by catching sediment and assimilating nutrients, and recharge the underground water table. Remove any undesirable exotic vegetation. Culverts underneath driveways should be checked for blockage, and, if necessary, flushed with a high-pressure hose. After a storm, swales may remain wet for an extended period of time. This is normal and the water will recede gradually.

### **5.4 Ditches or Canals**

Fill material, yard waste, clippings and vegetation, sediment, trash, appliances, garbage bags, shopping carts, tires, cars, etc. should be completely removed. Also check to make sure there are no dead trees or any type of obstructions which could block the drainage flow way.

Maintenance cleaning/excavation must be limited to the same depth, width and side slope as approved in the current permit. Making a ditch deeper or wider may trigger a need for a permit modification. Provisions must also be made to prevent any downstream silting or turbidity (*Contact the SFWMD Resource Compliance staff if you are unsure or need clarification.*) Be sure to dispose of all removed material properly so it won't affect any other water storage or conveyance system, environmental area, or another owner's property.

### **5.5 Outfall Structure (also called the Discharged Control Structure or Weir)**

The outfall structure should be routinely inspected to determine if any obstructions are present or repairs are needed. Trash or vegetation impeding water flow through the structure should be removed. The structure should have a "baffle" or trash collector to prevent flow blockage and also hold back any floating oils from moving downstream. Elevations and dimensions should be verified annually with all current permit information. Periodic inspections should then be regularly conducted to make sure these structures maintain the proper water levels and the ability to discharge.

### **5.6 Earthen Embankments (Dikes and Berms)**

Check for proper elevations, width and stabilization. Worn down berms - especially if used by all-terrain vehicles or equestrian traffic - and rainfall - created washouts should be immediately repaired, compacted and re-vegetated.

## **6.0 Water Quality Testing**

To ensure proper operation of the overall treatment system, monitoring will be performed at one outfall (SW-1) from the Milano Project if there is a flow over the weirs. According to the proposed Water Quality Monitoring Plan, monitoring may occur 3 times a year, once during the dry season (February/March) and twice during the wet season (August/September). A manual grab sample will be collected at the SW-1 outfall location and analyzed for various constituents and parameters as described in the Surface Water Quality Monitoring Plan. Trained and certified personnel will perform sample collection and laboratory analysis. The results of the laboratory analyses will be submitted to South Florida Water Management District as part of an annual water quality monitoring report by December 31 of each year.

## **7.0 Construction Activities**

A Stormwater Pollution Prevention Plan (SWPPP) has been prepared for construction activities to minimize activities contamination that may be caused by erosion and sedimentation during the construction process. The plan includes provisions related to soil stabilization, structural erosion controls, waste collection disposal, offsite vehicle tracking, spill prevention and maintenance and inspection procedures. A copy of the SWPPP is attached hereto and made a part of hereof.

