

This Instrument prepared by:
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Leon County Attorney's Office
301 South Monroe Street, Suite 217
Tallahassee, Florida 32301

Parcel ID: _____

**DECLARATION OF RESTRICTIVE COVENANTS
(Waiving Future Flood Damages Claims)**

THIS DECLARATION, made on the date hereinafter set forth by _____

[INSERT NAME(S) OF FEE SIMPLE OWNER(S)]

whose post office address is _____

[INSERT MAILING ADDRESS OF FEE SIMPLE OWNER(S)]

(hereinafter "Declarant");

WITNESSETH:

WHEREAS, Declarant is the fee simple owner of certain property located at _____

[INSERT ADDRESS OF PROPERTY BEING PERMITTED]

Tallahassee, Leon County, Florida, and further identified by the Leon County Property Appraiser as Parcel ID _____ (hereinafter the "Property"); and

[INSERT PARCEL ID NO.]

WHEREAS, an application for a development order has been submitted to Leon County, Florida, a charter county and political subdivision of the State of Florida (the "County"), through its Department of Development Support and Environmental Management (the "Department") for the permitting of the construction, erection, installation, or placement of a structure on the Property (hereinafter the "Proposed Structure(s)") in accordance with Building Permit No. _____; and

[INSERT BLDG. PERMIT NO.]

WHEREAS, Declarant acknowledges and agrees that it has been determined, pursuant to Section 10-8.301(1) of the Code of Laws of Leon County, as may be amended (the "Code"), that the Property is located within the 100-year floodplain and that the Proposed Structure(s) on the Property will be situated in such a way that, in accordance with the Code, the Owner must waive any and all future claims against the County for any damages to the Proposed Structure(s) (including access to the Proposed Structure(s)) and/or to Declarant's Personal Property within the Proposed Structure(s), arising from or out of the flooding of the Property; provided, however, that such waiver shall not be applicable to damage claims from and flooding resulting from, or otherwise caused by, the negligent acts or omissions of the County; and

WHEREAS, Declarant agrees to not seek any relief from such flooding under the County's Flooded Property Acquisition Program nor from any other such disaster relief programs funded by the County.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which shall run with the Property in perpetuity and which shall be binding on all parties having any right title or interest in the Property, or any part thereof, their heirs, successors, and assigns and shall inure to the benefit of the County (hereinafter the “Declaration”).

ARTICLE I Definitions

“Owner” shall mean and refer to the person or entity, or collectively to the persons or entities, holding fee simple title to the Property, and the Owner’s heirs, successors, and assigns.

“County” shall mean and refer to Leon County, Florida, a charter county and political subdivision of the State of Florida.

“Declarant” shall mean and refer to the Owner.

“Department” shall mean and refer to the Leon County Department of Development Support and Environmental Management.

“Personal Property” shall mean anything which is subject to ownership and not being considered land, any interest in land, or real property.

“Property” shall mean and refer to that certain real property hereinbefore described and identified by address and Parcel ID upon which the proposed structure will be constructed, erected, installed, or placed, and shall include any lots which may be created in a subsequent re-division or subdivision.

ARTICLE II Waiver of Any Future Flood Damage Claims

Declarant hereby waives any and all future claims against the County for any and all damages to the Proposed Structure(s) (including access to the Proposed Structure(s)) and/or to Declarant’s Personal Property within the Proposed Structure(s) arising from or out of the flooding of the Property; provided, however, that such waiver shall not be applicable to damage claims from any flooding resulting from, or otherwise caused by, the negligent acts or omissions of the County.

ARTICLE III Covenant Not to Seek Flood Relief

Declarant hereby covenants and agrees to not seek any relief or assistance (monetary, nonmonetary, or otherwise) through the County’s Flooded Property Acquisition Program, nor from any other such disaster relief programs funded by the County, for damages to the Proposed Structure(s) (including access to the Proposed Structure(s)) and/or to Declarant’s Personal Property within the Proposed Structure(s) arising from or out of the flooding of the Property, unless such relief to Declarant is otherwise approved by the Board of County Commissioners.

ARTICLE IV

General Provisions

Section 1. Enforcement. The County shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the County to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions, which provisions shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall inure to the benefit of the County and shall run with and bind the land in perpetuity. Any amendments hereto shall not be valid without the written consent of the County.

Section 4. Acknowledgment and Understanding. Declarant represents and agrees that he or she fully understands his or her right to discuss all aspects of this Declaration with a private attorney, and further states that he or she fully understands all of the provisions of the Declaration. Declarant further represents and acknowledges that in executing this Declaration, he or she does not rely, and has not relied, upon any representation or statement not set forth herein made by the County or by any of the County's agents, representatives, or attorneys with regard to the subject matter, basis, or effect of this Declaration or otherwise.

Section 5. Legal Requirement to Disclose Flood Conditions; Penalties. Declarant acknowledges and agrees that he or she fully understands that Florida law requires that when a seller or landlord of residential property, including the seller's or landlord's Broker, knows of facts that materially affect the value of such property, and which are not readily observable and are not known to a prospective buyer or tenant, the seller or landlord is under a duty to disclose such facts to a prospective buyer or tenant. Furthermore, Declarant fully understands that, pursuant to the Leon County Code of Laws, it shall be unlawful for a seller or landlord of residential property, with knowledge that such property has experienced flooding or is otherwise floodprone, to fail to disclose such facts in writing to a prospective buyer or tenant when such flood conditions are not readily observable and are not known to the prospective buyer or tenant, and that the failure to provide such disclosure in advance of entering into either a purchase and sale agreement, in the case of a prospective buyer, or an oral or written lease agreement, in the case of a prospective tenant, shall create a rebuttable presumption that the seller or landlord has failed to disclose facts that materially affect the value of such property and shall entitle the purchaser or tenant to seek to recover from the seller, in accordance with the remedies available at law, any damages resulting from such failure to disclose. A seller or landlord who fails to provide such disclosure is guilty of a civil infraction which is punishable by a fine not to exceed Five Hundred and 00/100 Dollars (\$500.00). Each occurrence of such failure to disclose constitutes a separate offense and may be punished separately.

Section 6. Controlling Law. This Declaration shall be construed and governed in accordance with the laws of the State of Florida.

PLEASE READ CAREFULLY. THIS DECLARATION INCLUDES A WAIVER OF ALL FUTURE CLAIMS AGAINST THE COUNTY FOR DAMAGES ARISING FROM THE FLOODING OF THE PROPERTY.

IN WITNESS WHEREOF, Declarant has caused this Declaration of Restrictive Covenants to be executed in its name by its respective authorized representatives, the day and year aforesaid.

[INSERT NAME OF OWNER]

Owner's Signature

Date: _____

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____ who is personally known to me or who has produced _____ as identification, and who did take an oath.

NOTARY PUBLIC (Sign Name)

(Print Name)

My Commission expires:

[INSERT NAME OF SECOND OWNER, IF ANY]

Owner's Signature

Date: _____

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____ who is personally known to me or who has produced _____ as identification, and who did take an oath.

NOTARY PUBLIC (Sign Name)

(Print Name)

My Commission expires: