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PAULDING COUNTY, GEORGIA

PREPARED BY AND RETURN TO:

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PAULDING COUNTY COURTS

DECLARATION OF EASEMENTS AND RESTRICTIVE COVENANTS

THIS DECLARATION OF EASEMENTS AND RESTRICTIVE COVENANTS ("Declaration") is made as of this 20th day of June, 2003, by **PARADISE SHOPPES OF DALLAS, LTD. (L.P.)**, a Florida limited partnership authorized to do business in Georgia ("Declarant"), having a mailing address of 2901 Rigsby Lane, Safety Harbor, Florida 34695, and joined into by **WACHOVIA BANK, NATIONAL ASSOCIATION** ("Lender") and **PUBLIX SUPER MARKETS, INC.**, a Florida corporation ("Publix").

RECITALS:

WHEREAS, Declarant is the owner in fee simple of certain real property located in Paulding County, Georgia, more particularly described on Exhibit "A" attached hereto (the "Property"); and

WHEREAS, Lender holds a first Mortgage lien on the Property by reason of a Deed to Secure Debt and Security Agreement recorded in Book 1201, Page 0889, et seq., Public Records of Paulding County, Georgia (the "Mortgage"); and

WHEREAS, the Property consists of separate parcels of land, as follows: (i) "The Shopping Center Tract" (The Shopping Center Tract is sometimes hereinafter referred to as the "Publix Parcel"), as shown on the Site Plan attached hereto as Exhibit "B" (the "Site Plan"), which is to be developed as a retail commercial shopping center (the Publix Parcel is more particularly described as Tract 1 on Exhibit "A" attached hereto); and (ii) Outparcels shown as "Outparcel 1 and Outparcel 2" on the Site Plan (hereinafter referred to as the "Outparcels", which are more particularly described as Outparcel 1 and Outparcel 2 on Exhibit "A" attached hereto); and

WHEREAS, the Publix Parcel and the Outparcels are being developed as a retail commercial shopping center known as "PARADISE SHOPPES OF DALLAS"; and

WHEREAS, the Publix Parcel, the Outparcels, the "Paved Areas" (as hereinafter defined), the "Landscaped Areas" (as hereinafter defined) and the "Parking Areas" (as hereinafter defined) are hereinafter collectively referred to as the "Shopping Center Property"; and

WHEREAS, Declarant, with the consent and approval of Lender, desires to declare and establish certain non-exclusive, perpetual easements among portions of the Shopping Center Property, and also to establish certain restrictions regarding the use and occupancy of the Shopping Center Property, or portions thereof, all as more particularly set forth herein; and

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WHEREAS, the Declarant also owns certain property which is adjacent to the Shopping Center Property (the "Future Development Tract").

NOW, THEREFORE, in consideration of the premises and covenants herein contained, the Shopping Center Property shall be and is hereby owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth. The provisions of this Declaration shall be and are hereby covenants running with the Shopping Center Property and are binding upon and inure to the benefit of all parties having any right, title or interest in or to the Shopping Center Property, or any part thereof, and their respective heirs, personal representatives, successors, assigns, transferees, and mortgagees (as owners of the Shopping Center Property or any portion thereof).

DECLARATION:

1. INCORPORATION BY REFERENCE:

The above Recitals are true and correct and are incorporated herein by this reference.

2. DEFINITIONS:

As used in this Declaration, the following terms shall have the following meanings:

2.1 Intentionally Deleted.

2.2 Declarant. The term "Declarant" means **PARADISE SHOPPES OF DALLAS, LTD. (L.P.)**, a Florida limited partnership, its successors and assigns. An Owner (as defined in Section 2.23) shall not, solely by the purchase of a portion of the Shopping Center Property, be deemed a successor or assign of Declarant or of the rights of Declarant under this Declaration unless such Owner is specifically so designated as a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Declarant.

2.3 Declaration. The term "Declaration" means this Declaration of Easements and Restrictive Covenants, as it may be amended or assigned from time to time.

2.4 Effective Date. The term "Effective Date" means the date this Declaration is fully executed by the Declarant, the Lender, and Publix, whichever is later.

2.5 Fast Food Restaurant. Fast Food Restaurant means a restaurant designed to serve fast food for on premise and off premise consumption including drive through facilities.

2.6 Future Development Tract. Future Development Tract means the certain property owned by Declarant which is adjacent to the Shopping Center Tract. The Future Development Tract is more particularly described on Exhibit "A" attached hereto

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2.7 Governmental Entity. The term "Governmental Entity" means any government, department, commission, board, court, authority or agency, and officials or officers thereof, whether federal, state or local.

2.8 Hazardous Substances. Hazardous Substances means all materials that are "hazardous wastes," as that term is defined by the Resource Conservation and Recovery Act, 42 U.S.C. Section 6903(5); "hazardous substances," as that term is defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Section 9601(14); any "pollutants" or "contaminants," as those terms are defined by CERCLA, 42 U.S.C. Section 9601(33); or volatile organic compounds, including oil and petroleum products or any other toxic substance, hazardous materials, oil or other chemicals or substances regulated by Laws.

2.9 Institutional Mortgagee. The term "Institutional Mortgagee" means any lending institution having a first mortgage on all or any portion of the Shopping Center Property, including, but not limited to, any of the following: (i) any federal or state savings and loan or a building and loan association, or commercial bank or bank or real estate investment trust, or mortgage banking company, or insurance company, or any subsidiary thereof; (ii) any "secondary mortgage market institution," including the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation and such other secondary mortgage market institutions; (iii) any pension or profit-sharing funds qualified under the Internal Revenue Code; (iv) any and all investing or lending institutions, or the successors and assigns of such lenders, which have loaned money to Declarant and which hold a mortgage upon any portion of the Shopping Center Property securing such loans; (v) any such other institutional lender that has acquired a mortgage or is about to acquire a mortgage upon any portion of the Shopping Center Property; (vi) Declarant or any designee of Declarant, if Declarant or such designee holds a mortgage on any portion of the Shopping Center Property, and the transferee of any mortgage encumbering the Shopping Center Property which was originally held by Declarant or such designee; and (vii) any life insurance company.

The term "Institutional Mortgagee" shall also include any of the foregoing who lend funds to Declarant or any Owner for the purpose of constructing any improvements on the Shopping Center Property although the mortgage securing such loan may be of lesser dignity than the first mortgage.

2.10 Insurance Requirements. Insurance requirements means all terms of any insurance policy covering or applicable to the Shopping Center Property, or any portion thereof, or the improvements thereon, and all requirements of the issuer of any such policy.

2.11 Interest. The term "Interest" means interest at the rate of fifteen percent (15%) per annum from the date an obligation is due until paid.

2.12 Intentionally Deleted.

2.13 Intentionally Deleted.

2.14 Land Lessee. The term "Land Lessee" shall mean any person or entity that land leases a portion of the Shopping Center Property, including the Outparcel, from an Owner. In

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such event, the obligations placed on an Owner by this Declaration shall be the obligation of either the Owner or Land Lessee, based on the contractual agreement between them.

2.15 Landscaped Areas. The term "Landscaped Areas" means those areas existing from time to time on any portion of the Shopping Center Property that are used for vegetation or left in a natural state in accordance with governmental regulation. The initial Landscaped Areas are designated as such on the Site Plan.

2.16 Laws. The term "Laws" means all applicable laws, rules, orders, ordinances, statutes, regulations, rules, building codes, requirements, judgments, permits, licenses, authorizations and directions of any Governmental Entities in effect either on the effective date hereof or at any time hereafter.

2.17 Legal Fees. The term "Legal Fees" means reasonable fees for attorney and paralegal services incurred in connection with: (a) enforcement of any covenants, provisions, or rights contained in this Declaration and preparation for litigation, whether or not an action is actually commenced, through and including all trial, appellate levels, and post-judgment proceedings; and (b) collection of any other amounts due and payable under this Declaration, including, but not limited to, preparation of notices and liens, and shall also include all costs through and including all trial, appellate levels, and post-judgment proceedings.

2.18 Lender. The term "Lender" means WACHOVIA BANK, NATIONAL ASSOCIATION, which at the date of this Declaration holds a first mortgage lien on the Shopping Center Property, its successors and assigns.

2.19 Leasable Floor Area. The term "Leasable Floor Area" shall mean the floor area calculated in square feet located in or appurtenant to buildings (other than the Publix Storeroom) constructed or to be constructed on the Shopping Center Property, which Leasable Floor area shall include, without limitation: the area within said buildings; enclosed vestibules, exclusive passageways; basements; storage areas; mezzanines; outdoor garden shops or sales areas; exclusive of enclosed loading areas; and such other areas as Declarant may from time to time designate.

2.20 Lessee. The term "Lessee" means the holder of any leasehold interest in the Shopping Center Property.

2.21 Licensee. The term "Licensee" means any person or entity having any right relative to any portion of the Shopping Center Property pursuant to an agreement or covenant duly granted by the Owner of that portion of the Shopping Center Property.

2.22 Occupant. The term "Occupant" means the person or persons, or legal entity or legal entities, lawfully in possession of any portion of the Shopping Center Property, which term shall include Owners, Lessees and Licensees.

2.23 Owner. The term "Owner" means the fee simple title owner of any portion of the Shopping Center Property. The term Owner includes the successors, assigns, heirs, and legal representatives of an Owner. The term Owner, subject to the definition of Declarant in Section 2.2 above, also includes Declarant, so long as Declarant is the owner of any portion of the

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Shopping Center Property. Owner shall not mean or refer to a holder of a mortgage, security agreement, lien or other encumbrance on the Shopping Center Property or any portion thereof, or the holder's successors and assigns, unless the holder has acquired fee simple title pursuant to foreclosure proceedings or by deed in lieu of foreclosure, nor shall the term Owner mean or refer to any Lessee or Licensee or their successors and assigns.

2.24 Owner of the Publix Parcel. The term "Owner of the Publix Parcel" means the Owner of the parcel containing Publix (as defined in Section 2.30 below), as such Owner may change from time to time. The term "Owner of the Publix Parcel" also means an Owner as defined in Section 2.23 above, unless the context provides otherwise.

2.25 Parking Areas. The term "Parking Areas" are those portions of the Publix Parcel and the Outparcels designated as "Parking," or depicted as parking spaces, on the Site Plan, as well as any designated parking spaces and any parking lots or areas as are hereafter required by applicable Laws to be located on the Outparcel.

2.26 Intentionally Deleted.

2.27 Paved Areas. The term "Paved Areas" means those areas existing from time to time on any portion of the Publix Parcel and the Outparcels that is paved or otherwise stabilized for vehicular or pedestrian traffic and, without in any way limiting the generality of the foregoing, are customarily used for vehicular or pedestrian ingress and egress by the Occupants and the Property Users (as defined in Section 2.28 below) of the Occupants, and that may customarily be considered as driveways, alleyways, roadways, thoroughfares, alleys, sidewalks or lanes.

2.28 Property User. The term "Property User" means the officers, employees, agents, independent contractors, customers, visitors, business guests, invitees and suppliers of an Owner, Occupant, Lessee or Licensee.

2.29 Public Records. The term "Public Records" means the Public Records of Paulding County, Georgia.

2.30 Publix. The term "Publix" means PUBLIX SUPER MARKETS, INC., a Florida corporation, its permitted assigns and successors in interest, as the Lessee of the building, with associated improvements, located within the Publix Parcel, as shown on the Site Plan. The consent rights and other rights and benefits of Publix contained in this Declaration shall only be valid and enforceable for so long as the Publix Lease is in full force and effect.

2.31 Publix Lease. The term "Publix Lease" means that certain Lease dated July 30, 2002 between Paradise Shoppes of Dallas, Ltd., as Landlord and Publix Super Markets, Inc., as Tenant, amended by that certain First Amendment to Lease Agreement dated September 23, 2002, as evidenced by that certain Memorandum of Lease dated July 30, 2002, and recorded in Book 1210, Page 0623, et. seq., amended by that certain First Amendment to Memorandum of Lease dated September 23, 2002, and recorded in Book 1237, Page 0092, et. seq., Public Records of Paulding County, Georgia.

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2.32 Publix Storeroom. The term "Publix Storeroom" means the building intended to be initially used and occupied by Publix for the operation of a grocery supermarket, as substantially depicted and so designated on the Site Plan.

2.33 Wachovia. The term "Wachovia" means Wachovia Bank, National Association.

2.34 Utilities. The term "Utilities" ("Utility") shall include service for sanitary sewer, drainage facilities, water, electric, telephone, cable and other communication media and other services provided by public or private entities that are in the nature of a public utility, except as specifically excluded from this definition. For purposes of this Declaration, "Utilities" ("Utility") excludes service for drainage, irrigation, or storm water.

3. **INSTALLATION, MAINTENANCE AND REPAIR OF PAVED AREAS, LANDSCAPED AREAS, PARKING AREAS AND UTILITIES:**

3.1 Paved Areas, Landscaped Areas and Parking Areas.

(a) The initial construction and installation of the Parking Areas, Paved Areas and Landscaped Areas located on the Publix Parcel and those Paved Areas adjacent to the Outparcels, hereinafter collectively referred to as the "Publix Parcel Parking Areas, Paved Areas and Landscaped Areas" shall be the sole responsibility of the Owner of the Publix Parcel. The Publix Parcel Parking Areas, Paved Areas and Landscaped Areas shall be constructed and installed in accordance with all applicable Laws. Upon completion of the construction and installation of the Publix Parcel Parking Areas, Paved Areas and Landscaped Areas, the Owner of the Publix Parcel shall be responsible for the maintenance, repair and replacement of the Publix Parcel Parking Areas, Paved Areas and Landscaped Areas, at its sole cost and expense, in accordance with Section 7.6 hereof.

The Parking Areas within the Publix Parcel shall be constructed and installed in accordance with the Site Plan. The number, size, layout and location of the parking spaces on the Publix Parcel, as shown on the Site Plan, shall not be reduced or changed, nor shall the entrances and exits to and from the Publix Parcel be reduced in size or be relocated without the prior written consent of Publix, which consent may be withheld in Publix's sole discretion.

(b) The initial construction and installation of the Paved Areas, Parking Areas and Landscaped Areas on the Outparcels and Future Development Tract shall be the sole responsibility of the Owner of the Outparcels and any Owner of parcels contained within the Future Development Tract and shall be constructed and installed in accordance with all applicable Laws. The Outparcels and any development on the Future Development Tract shall contain at least the minimum required number of parking spaces to service the use maintained on the Outparcels and Future Development Tract without resort to any variances or easements over the Publix Parcel. Upon completion of the construction and installation of the Paved Areas, Parking Areas and Landscaped Areas on the Outparcels and Future Development Tract, the then Owner of the Outparcels and any development parcels on the Future Development Tract shall have the sole responsibility for the maintenance, repair and replacement of such Paved Areas, Parking Areas and Landscaped Areas, at its own cost and expense, in accordance with Section 7.6 hereof.

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If any Owner of the Outparcels or the developed parcels on the Future Development Tract or the Publix Parcel fails or refuses to perform or neglects the maintenance, repair or replacement of the Paved Areas, Parking Areas or Landscaped Areas within its respective Parcel, then the other Owners shall have the right to pursue any of the remedies contained in Section 9.4 hereof.

(c) No change, alteration or modification to the Paved Areas, Parking Areas and Landscaped Areas of the Shopping Center Property as depicted in the Site Plan which materially affect the ingress, egress or use of the Publix Parcel or the Outparcels will be made without the written consent of Publix and the Owner of other Outparcel, their successors and/or assigns.

3.2 Utilities.

(a) The Owner of the Publix Parcel shall be responsible, at its sole expense, for the initial installation and construction of the lines and related fixtures and equipment for the water and sanitary sewer Utilities within the Publix Parcel and up to the boundary lines of the Outparcel or in public right-of-ways adjacent thereto, as the case may be, at the location(s) indicated on the Site Plan; provided, however, any Owner of the Outparcels is responsible for all charges, costs, and expenses associated with connecting to the lines for such Utilities, including, but not limited to, impact fees, connection fees, meters, and usage fees. The lines and related fixtures and equipment for any other Utility shall be installed and constructed at the expense of the Owner whose property benefits from such other Utility.

(b) If the lines and related fixtures and equipment for any Utility installed and constructed on the Publix Parcel or the Outparcels benefit any property included in the Shopping Center Property in addition to the property upon which such lines, fixtures, and equipment are located, the Owner of the property upon which such lines, fixtures, and equipment are located shall be responsible for their maintenance, repair, and replacement (except to the extent a Utility is maintained by another entity, such as a public utility, or as otherwise may be provided under this Declaration). The cost of such maintenance, repair, and replacement, including the cost of restoring the property to its condition prior to such work, shall be borne by each Owner whose property is serviced by the subject Utility in the proportion to which the ground area in square feet of each such Owner's property bears to the ground area in square feet of all other property in the Shopping Center Property serviced by the Utility.

Notwithstanding anything in this Section 3.2 to the contrary, in the event of any disruption to a Utility service and if the Owner responsible for making repairs fails to proceed with such repairs within twenty-four (24) hours of reasonable notice of the disruption to such Owner, an affected Owner may proceed to enter upon the property of the responsible Owner for the purpose of making the repairs necessary to restore service. The affected Owner shall be responsible for restoring the property to its condition prior to the repair and shall be entitled to reimbursement of the out-of-pocket costs of such restoration.

(c) An Owner who, in accordance with this Declaration, does any installing, placing, constructing, repairing, maintaining, rebuilding, replacing, relocating, or removing with respect to an easement shall perform such activities in a manner that causes the least amount of disruption to the uses of the Shopping Center Property. Prior to performing any such activities and, if necessary, prior to entering upon another Owner's property, an Owner shall provide ten

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(10) days' written notice to each Owner affected, in any manner, thereby of the nature of the activity, the area where the activity will be performed, and the estimated time of completion; provided, however, in the event of an emergency, such as a disruption of service, an Owner shall provide reasonable notice. An Owner performing any such activities on another Owner's property shall, upon completion, be responsible for restoring the subject property to the condition that existed prior to performing the activity at the performing Owner's expense.

(d) In addition to the remedies provided by this Section 3.2, if an Owner fails, neglects, or refuses to perform the Owner's obligations under this Section 3.2, then any Owner affected thereby shall have the right to pursue the remedies set forth in Section 9.4 below.

(e) All Utilities within the Shopping Center Property shall be installed and maintained underground, except for nominal meters, junction boxes, manholes and other equipment necessary for access to, or for the maintenance or operation of a Utility.

Neither Declarant nor the Owner of the Publix Parcel shall be responsible to any Owner, or such Owner's Lessees, Licensees, Occupants and Property Users, for the consequences of interrupted service of Utilities to the improvements situated on the Shopping Center Property.

(f) Easements necessary for the installation, construction and use of utilities are granted in Paragraph 5 of this Declaration.

4. EASEMENTS FOR INGRESS AND EGRESS:

4.1 Declarant's Easement. Declarant hereby reserves a perpetual, non-exclusive easement, appurtenant to the Publix Parcel, for the use and benefit of Declarant, its successors and assigns, its Lessees, Licensees, Occupants, and Property Users for the purpose of vehicular and pedestrian ingress and egress over the Paved Areas located on the Outparcels and the Future Development Tract, as such areas shall from time to time be developed, constructed, altered or modified.

4.2 Outparcel and Publix Parcel Easements. Declarant hereby grants and conveys to the Owner of the Publix Parcel and the Owners of the Outparcels and Future Development Tract, a perpetual, non-exclusive easement, appurtenant to the Publix Parcel and the Outparcels, as applicable, for the use and benefit of each such Owner, their Lessees, Licensees, Occupants, and Property Users, for the purpose of vehicular and pedestrian ingress and egress, to and from the Publix Parcel, such Outparcels or the Future Development Tract, as applicable, over, upon and across the Paved Areas located on the Shopping Center Property, as such areas shall from time to time be developed, constructed, altered or modified. Access points to allow for ingress and egress between the Owners' respective properties and Shopping Center Property entrances shall be installed as shown on the Site Plan. The easements reserved and granted in Sections 4.1 above, and this Section 4.2 are sometimes hereinafter collectively referred to as the "Access Easements."

4.3 Limited Use of Easements. The use of the Access Easements are limited to the purposes stated within Sections 4.1 and 4.2 above. No Owner, Lessee, Licensee, Occupant, or otherwise, shall use or permit use of the Access Easements in any way that may create a

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dangerous condition or create any interference with the current or future use of the Shopping Center Property.

4.4 Interference with Use: Relocation. The location of the Access Easements shall not interfere with the use of the Shopping Center Property by any Occupant. An Owner of an Outparcel may relocate any Paved Area on its property at the expense of such Owner, subject to compliance with the provisions of this Declaration and applicable Laws. The prior written consent of the other Owners and Publix, so long as the Publix Lease is in force and effect, shall not be required unless an Owner seeks the relocation of the access points referred to in Section 4.2 above. If, pursuant to the foregoing sentence, the prior written consents of the other Owners are required, such consents shall be in the sole discretion of the other Owners and Publix, as the case may be. In addition to the other requirements of this Section, the relocation of any Paved Area shall not interfere with the use of the Shopping Center Property by any Occupant. Further, the relocation of any Paved Area shall not decrease, or interfere with, the accessibility of any portion of the Shopping Center Property by vehicular or pedestrian traffic.

4.5 No Parking or Standing. The Access Easements are not intended to be, and shall not be construed as, easements for vehicular parking or standing and the granting of these non-exclusive easements shall not be used, or in any way relied upon, by any party for meeting regulatory parking ratio requirements. The Owners shall use their best efforts to require their respective Lessees, Licensees, Occupants, and Property Users not to litter or otherwise degrade the quality and environment of the Access Easements. The Parking Areas located on the Outparcel and the Publix Parcel are for the use and benefit of the Owner thereof, and each Owner of any portion of the Shopping Center Property shall use its best efforts to keep its respective Lessees, Licensees, Occupants, and Property Users from parking in the Outparcel or the Publix Parcel, as applicable.

5. EASEMENTS FOR UTILITIES:

5.1 Easements on Outparcels and Future Development Tract. Declarant hereby reserves a perpetual, non-exclusive easement, appurtenant to the Publix Parcel, for the use and benefit of Declarant, its Lessees, Licensees, Occupants, on, under and through the Outparcels and the Future Development Tract, for the purpose of installing, placing, constructing, operating, repairing, maintaining, rebuilding, replacing, relocating and removing, subject to applicable Laws and this Declaration, lines for Utilities and all necessary fixtures and equipment related thereto. No trees, permanent buildings or other improvements shall be placed in or allowed to encroach upon any installed utility lines and related fixtures or equipment and no change of grade elevation or excavation shall be made thereon without Declarant's prior written approval. The location of the Utilities is depicted on Exhibit "C".

5.2 Easements on Shopping Center Property. Declarant hereby grants and conveys to the Owner of the Publix Parcel, the Outparcels and the Future Development Tract, a perpetual, non-exclusive easement appurtenant to the Publix Parcel, the Outparcels and the Future Development Tract, as applicable, for the use and benefit of each such Owner, its Lessees, Licensees, and Occupants, for the purposes of installing, operating, repairing, maintaining, rebuilding, replacing and removing, subject to applicable Laws and this Declaration, lines for Utilities and all necessary fixtures and equipment related thereto on, under, and through the Shopping Center Property. This grant of easement also includes the rights to connect to and use

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the lines for any Utilities brought to the boundary lines of an Outparcel by the Owner of the Publix Parcel; and to connect to the lines for Utilities located on, under and through any other easements on the Shopping Center Property that now exist or are hereafter granted to any private entity, public entity, or Governmental Entity for the purpose of providing a Utility to an Owner's property. Each Owner, subject to compliance with this Declaration, agrees to grant to any private entity, public entity, or Governmental Entity such easements on its property as are necessary to provide a Utility to another Owner. Declarant reserves herein the right to alter the specific location of the easements on the Publix Parcel subject to the conditions set forth in Section 5.4 below regarding interference with use. The easements reserved and granted in Section 5.1 above and this Section 5.2 are sometimes hereinafter collectively referred to as the "Utility Easements".

5.3 Limited Use of Easements. The use of the Utility Easements is limited to the purposes stated within Sections 5.1 and 5.2 above. No Owner, Lessee, Licensee, Occupant, or otherwise shall use or permit the use of the Utility Easements in any way that may create a dangerous condition or create any interference with the current or future use of the Shopping Center Property.

5.4 Interference with Use: Relocation. The location of the Utility Easements shall not interfere with the use of the Shopping Center Property by any Occupant. Any portion of any installed Utility system may be relocated at the expense of the Owner requiring or requesting the relocation, subject to compliance with applicable Laws and this Declaration. The prior written consent of any other Owner shall not be required unless an Owner seeks a relocation that changes the point at which a Utility line serving the property of any such other Owner connects to the Utility system, or portion thereof, for which relocation is sought. If, pursuant to the foregoing sentence, the prior written consent of any other Owner is required, such consent shall not be unreasonably withheld, conditioned, or delayed, provided it shall not be unreasonable to withhold consent if any such relocation would require an Owner to redesign that Owner's improvements or to relocate the connection point on that Owner's property to match up with a relocated connection point on the property of the other Owner (except for minor field variations). An Owner seeking the relocation of any portion of a Utility system shall, as part of the expense for the relocation, pay the expense associated with changing the connection point for a Utility line serving any other Owner's property. In addition to the other requirements of this Section, any Utility system relocation shall not interfere with, or increase the cost of, or diminish the Utility services, or interfere with the use of the Shopping Center Property by any Occupant. Any relocated system must also be available for use by any other Owner to the same extent as prior to the relocation.

6. DRAINAGE SYSTEMS:

6.1 General Provisions. All drainage and stormwater management systems that may be required by Governmental Entities to be installed on the Shopping Center Property and the Future Development Tract shall be installed in accordance with applicable Laws and in accordance with plans and specifications approved by the Declarant which approval will not be unreasonably withheld. The installation, operation, maintenance, repair and replacement of all drainage and stormwater management systems on the Publix Parcel or an Outparcel are the responsibility and expense of the Owner of the Publix Parcel or Outparcels, as the case may be. All plans for such systems must be approved by the Declarant and must treat all drainage and

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stormwater on each respective Owner's site in accordance with all applicable laws. All drainage facilities shall be constructed to direct drainage flow through the drainage systems to be constructed by Declarant on the Publix Parcel and the Future Development Tract.

6.2 Declarant's Easement. Declarant hereby reserves a perpetual, non-exclusive easement for the use and benefit of Declarant and all Owners, their Lessees, Licensees, Occupants of the Shopping Center Property, Outparcels and Future Development Tract for the purposes of drainage and stormwater management on, under and through the Shopping Center Property and for installing, constructing, operating, maintaining, replacing, relocating and removing systems to accomplish such purposes. The reservation also includes the right to install, construct, operate, maintain, replace, relocate and remove apparatus, fixtures and equipment necessary to accomplish the purposes of the easement. The location of any easement shall not interfere with the use of the Shopping Center Property by any Occupant. Any easement may be relocated by an Owner provided that the relocation does not change the point at which the drainage system of any other Owner connects to the drainage system for the Shopping Center Property. If the connection point will be changed, the prior written consent of the Owner whose connection point will be changed shall be required, which consent shall not be unreasonably withheld, conditioned or delayed, provided it shall not be unreasonable to withhold consent if any such relocation would require an Owner to redesign that Owner's improvements or to relocate the connection point on that Owner's property to match up with a relocated connection point on the property of the other Owner (except for minor field variations). Upon the location or relocation of an easement, no trees, permanent buildings or other improvements shall be placed in or allowed to encroach upon the easement and no change in grade level or excavation shall be made without Declarant's prior written approval. Any relocation shall not interfere with the use of the Shopping Center Property by any Occupant.

7. **USE AND DEVELOPMENT RESTRICTIONS:**

The Shopping Center Property shall be developed, used, and occupied only for those purposes that are now or hereafter permitted under the land use designation and zoning district for the Shopping Center Property and according to all other applicable public and private restrictions, covenants and Laws affecting the Shopping Center Property, including, but not limited to, the covenants and restrictions contained herein below that provide for, among other things, architectural and aesthetic control over any improvement or development upon the Shopping Center Property.

7.1 Exclusive Uses.

(a) Publix shall have the exclusive right within the Shopping Center Property to: (i) operate a grocery supermarket, bakery, delicatessen, fish market; (ii) sell drugs or other products which are required by law to be dispensed by a registered pharmacist; and (iii) engage in retail sales of items of food for "off-premises" consumption. No other portion of the Shopping Center Property shall be used for the aforementioned purposes except as specifically provided herein. Notwithstanding the foregoing, the pharmacy exclusive contained in Section 7.1(a)(ii) above shall not apply to the Outparcels.

(b) Intentionally Deleted.

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7.2 Shopping Center Property Use Restrictions.

(a) Neither the Shopping Center Property nor the Future Development Tract nor any portion thereof shall be used or occupied for any of the following prohibited uses: (i) a dry cleaning plant, cinema or theater, skating rink, bowling alley, discotheque, dance hall, night club, amusement gallery having three (3) or more games, pool room, health spa, adult entertainment facility, gymnasium, massage parlor, nude or semi-nude dancing or service, lingerie modeling, "adult" or "x-rated" book or video store (except that this prohibition shall not extend to the sale or rental of "adult" or x-rated" video tapes as a part of the business of a video store offering a substantial selection of other types of video tapes as a majority of its selection), for the display or sale of pornographic or obscene materials (i.e., books, magazines, newspapers, video tapes, video disks, computer software, or the like which would be considered obscene or pornographic under prevailing laws or community standards), pin ball or electronic game room having three (3) or more games, a so-called "head shop", funeral parlor, flea market, bingo parlor, cafeteria, day care center (except for a day care center which may be located on an outparcel adjacent to the easterly boundary of the Future Development Tract so long as the same is located at least 250 feet east of the easterly boundary of Outparcel 2), sale, rental or lease of automobiles, trucks, other motorized vehicles, or trailers, or car wash (except for a single bay, fully automated car wash operated in conjunction with a gasoline station located on Outparcel 2, and except for a commercial full-service car wash containing not more than five (5) bays which may be located on the Future Development Tract, so long as the same is located at least 200 feet east of the easterly boundary of Outparcel 2); (ii) and, in addition, Declarant hereby covenants and agrees that, without the prior written approval of Publix, no other premises in the Shopping Center Property located within 500 feet of the Publix Storeroom (which distance shall be measured from the Publix Storeroom demising wall nearest said other premises to the demising wall of said other premises nearest the Publix Storeroom) shall be used for a day care center, or a "concept" restaurant and/or cocktail lounge of a parking intensive nature, such restaurants and/or cocktail lounges, being similar in nature to Bennigan's, T.J. Applebee's, Outback Steakhouse, Chili's, Hooters, and T.G.I. Friday's. In any event, not more than an aggregate of four (4) sit-down restaurants and/or cocktail lounges, regardless of concept or parking intensive nature, not to exceed an aggregate of 9,000 square feet of Leasable Floor Area shall be located within the Shopping Center Property, and not more than one (1) "concept" restaurant and/or cocktail lounge of a parking intensive nature shall be located within the Shopping Center, and such "concept" restaurant and/or cocktail lounge, if any, shall be located within the building depicted and designated "Shops C" on the Site Plan. Additionally, no sit-down restaurants and/or cocktail lounges, regardless of concept or parking intensive nature, shall be located on the Outparcels; provided, however, such prohibition shall not restrict the operation of a typical "fast food" restaurant. For purposes of this Lease, the term "sit-down restaurants" shall not be deemed to include a pickup or delivery outlet for prepared food items as contemplated by Section 7.2(b) of this Declaration, or a sandwich shop such as Subway or Blimpie.

The exclusive uses and restrictions in this Section 7.1 (a) and 7.2 are for the benefit of Publix. At such time as Publix Lease is no longer in force or effect, Declarant may, in its sole and absolute discretion, amend this Declaration, pursuant to Section 9.11 hereof, to modify or remove the restrictions.

(b) Notwithstanding the above, the foregoing restrictions contained in Sections 7.1 and 7.2 shall not, however, prohibit the following: (i) a sit down restaurant offering

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prepared ready-to-eat food items for consumption either on or off the premises; (ii) a delicatessen or sandwich shop type restaurant (but not a bakery) which offers take out service as an incidental part of its restaurant operation, provided that at least seventy percent (70%) of the Leasable Floor Area of such restaurant (exclusive of kitchen or food preparation area) is utilized for seated dining purposes; (iii) a health food store or nutrition center, provided that the Leasable Floor Area devoted to such health food store or nutrition center shall not exceed 1,600 square feet, ice cream parlor or frozen yogurt store, franchise doughnut shop (equivalent to a Dunkin' Donut or Krispy Kreme operation), candy store, or a pickup or delivery outlet for prepared food items (i.e., pickup or delivery outlet without seated dining facilities), all of which may offer the sale of food items for consumption on or off the premises; (iv) a combination gas station and convenience food store operation, provided that the Leasable Floor Area devoted to the sale of food and beverage products shall not exceed 2,000 square feet; provided, however, the foregoing exception (iv) shall not permit a gas station/convenience food store that is owned by, operated by or controlled by another grocery supermarket entity or general merchandise retailer that also operates grocery supermarkets (such as WalMart), such entity's parent company or its subsidiaries or affiliates, and which gas station and convenience store operation is identified on the premises with such grocery supermarket name or the name under which such general merchandise retailer operates its grocery supermarkets within the State of Georgia; and (v) a video rental or sale store (similar to a Blockbuster Video) which may offer the sale of items normally sold by movie theaters (i.e., popcorn or candy) for consumption off the premises.

Notwithstanding anything contained herein to the contrary, any exclusive use rights granted to any Occupant of the Shopping Center Property or restrictions placed on the Publix Parcel by this Declaration shall not be applicable to the Publix Storeroom except for the restrictions contained in Section 7.2(a)(i).

7.3 Amendment of Use Restrictions. Subject to Section 9.11 hereof, so long as Declarant is the Owner of the Publix Parcel, Declarant, without the consent of any other Owner, Lessee, Licensee or Occupant or any other person or entity, shall have the right to amend the use restrictions of the Declaration to provide for additional specific use restrictions and exclude from the effects thereof the Outparcel; provided, however, so long as the Publix Lease is in force and effect, the prior written consent of Publix to any such action shall be required. The Owners of the Outparcel shall give their written consent to any such amendment upon the request of the Declarant.

7.4 Outparcel and Adjacent Property Restrictions.

(a) Outparcel Restrictions. Declarant covenants and agrees that any buildings, pylon or monument signs constructed on the Outparcels shall be subject to the following restrictions: (i) no more than one building shall be constructed on any Outparcel and said building shall accommodate only one (1) business operation therein (except for the operation of a fully automated car wash operated in conjunction with a gas station), provided, however, any Outparcel used primarily for the operation of a combination gas station and convenience food store may accommodate up to two (2) business operations therein; (ii) no building shall exceed one story in height; (iii) no building shall exceed twenty-five (25) feet in height (except for cupolas or parapets which may extend up to an additional five (5) feet in height); (iv) the Leasable Floor Area of any building constructed on Outparcel 1 shall not exceed 5,000 square feet of Leasable Floor Area, and any building constructed on Outparcel 2 shall not exceed 5,500

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square feet of Leasable Floor Area (it being understood that such square footage limitation shall not include any covered, unoccupied drive-through space), provided, in any extent, such Leasable Floor Area shall be further limited to the extent that the number and size of on-grade automobile parking spaces required by all applicable rules, regulations, ordinances, and laws can be constructed and maintained within the boundaries of such Outparcel; (v) each building shall comply with all governmental rules, regulations, ordinances, and laws; (vi) any pylon or monument signs erected or constructed on the Outparcels shall not obstruct visibility of the Publix Storeroom or the pylon or monument sign identifying the Shopping Center or Publix; and (vii) in the event any improvements located on any Outparcel shall be damaged or destroyed, and in the event the owner of any such Outparcel elects not to repair or restore such improvements, the Outparcel owner shall promptly raze and remove such damaged or destroyed improvements, and either landscape or pave and maintain any such Outparcel (including concealment of any exposed slab or foundation thereof) in a manner consistent with the Common Area. All rules, regulations, ordinances, or laws relative to parking requirements shall be complied with by providing the requisite size and number of on-grade parking spaces within the boundaries of said Outparcels, without reduction in such size and number by virtue of the granting of a variance or special exception to such rules, regulations, ordinances, or laws by the governmental authority having jurisdiction thereof; provided, however, the Outparcels shall contain not less than five (5) parking spaces, each having a minimum width of ten feet (10'), for every 1,000 square feet of Leasable Floor Area constructed on the Outparcel. Furthermore, the provisions of all applicable rules, regulations, ordinances, and laws to the contrary notwithstanding, for purposes of this Section 7.4(a), the Leasable Floor Area of any building constructed on an Outparcel shall also be deemed to include outdoor balconies, patios, or other outdoor areas utilized for retail sales or food or beverage service (exclusive of areas utilized exclusively for drive through or walk-up take-out food or beverage service).

(b) Adjacent Property Restrictions.

(1) Adjacent Property of Declarant. If at any time, Declarant, or any entity which owns a legal or beneficial interest in Declarant, acquires real property adjoining or adjacent to the Shopping Center Property, Declarant covenants and agrees that: (i) such adjoining or adjacent property shall be subject to the exclusive use and prohibited use provisions of Section 7 of this Declaration entitled, "Use and Development Restrictions"; (ii) any buildings or other improvements (including Pylon or monument signs) constructed on such adjacent property shall not materially interfere with or alter the visibility of and public access to the Publix Storeroom or the visibility of the Shopping Center pylon or monument signage; (iii) Declarant shall not place, or allow the placement of, any telecommunications towers thereon; and (iv) any building constructed on Outparcels located on such adjacent property and within 250 feet of the boundary of the Shopping Center shall comply with the restrictions set forth in Section 7.4(a) of this Declaration, entitled "Outparcel Restrictions".

(2) Common Area Rights of Others. Declarant covenants and agrees that without the prior written consent of Publix, Declarant shall not grant or convey to the owner of any Real property adjoining or adjacent to the Shopping Center or the Future Development Tract any rights, easements, or privileges in or to the Common Area of the Shopping Center or the Future Development Tract; provided; however, such consent shall not be unreasonably withheld, conditioned, or delayed if the owner of the adjacent property agrees to subject such adjacent property to the restrictions set forth in Section 7.4(b)(1), entitled "Adjacent Property of

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Declarant", or such other restrictions as Publix shall approve in writing, during the Term of the Publix Lease. Further, anything contained herein to the contrary notwithstanding, Publix agrees that it shall not unreasonably withhold, condition, or delay its consent to the grant of easement rights to a utility provider who will be using same to provide utility service to the Shopping Center Tract.

(c) Covenant Running with the Land. Declarant hereby covenants and agrees that the restrictions set forth in Sections 7.4(a) and (b), entitled "Outparcel Restrictions" and "Adjacent Property Restrictions", respectively, shall be deemed to constitute a covenant running with title to the Outparcels or adjacent property, as the case may be, which covenant shall remain in full force and effect and be binding upon the owner of such Outparcel or adjacent property for and during the Term of the Publix Lease. Upon expiration or termination of the Publix Lease, such covenant shall likewise expire or terminate.

(d) Architectural Approval. Each Owner of an Outparcel or any portion of the Future Development Tract shall obtain the prior written approval of Declarant of the architectural design or plans and specifications of any improvement, building, signage, structure or landscaping on any Outparcel, which approval may not be unreasonably withheld, conditioned, or delayed, provided, the plans and specifications are in conformity with the overall design and color of the improvements of the Publix Parcel and are not a violation of Section 7.4(a)-(c) hereof. Such approval is required even if the architectural design or plans and specifications are those normally and customarily used by a local, regional or national chain, retail merchant, restaurant, or service provider. No improvements, building, structure or landscaping shall be commenced, erected, installed, altered, modified or planted on the Outparcel or any portion of the Future Development Tract unless two (2) complete sets of the architectural design or plans and specifications prepared by an architect, landscape architect, engineer or other person found to be qualified, showing the nature, dimensions, materials and location of the same have been submitted to and approved in writing by the Declarant. The Declarant may issue rules or guidelines setting forth procedures for the submission of architectural designs or plans and specifications in addition to those contained in this Declaration; provided, however, if written notice of disapproval of submitted architectural plans and specifications is not mailed by U.S. first class mail within fifteen (15) days of submittal, the architectural plans and specifications shall be deemed approved by Declarant.

Subject to the requirements of this Declaration, Declarant shall approve proposals of architectural designs or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated will not be detrimental to the appearance of the Outparcel or Future Development Tract, and that the appearance of any improvement, building, structure, signage or landscaping shall be aesthetically consistent with the surrounding structures and improvements located on the Shopping Center Property. Declarant may condition its approval of proposals in the manner it deems appropriate and may require the submission of additional information prior to approving or disapproving any architectural designs or plans and specifications.

Notwithstanding any provision in this Section 7.4(d) to the contrary, the approval of Declarant shall not be required for any additions, changes or alterations in the interior of any structure on the Outparcel or Future Development Tract if such additions, changes or alterations

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are not visible from the outside of such Outparcel or the particular parcel developed on the Future Development Tract. The approval by Declarant of any architectural designs or plans and specifications for any work completed or proposed shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any identical or similar proposal subsequently or additionally submitted for approval or consent, whether such submission is by that applicant or another applicant.

Upon the completion of any work for which approved architectural designs or plans and specifications are required under this Section 7.4(d), the Owner of an Outparcel or any parcel developed on the Future Development Tract (a "Future Development Parcel") shall give written notice of completion to Declarant. Within fifteen (15) days after written notice of completion, Declarant, or its duly authorized representative, may inspect the completed construction. If Declarant finds that the work was not completed in substantial compliance with the approved architectural designs or plans and specifications, it shall notify the Owner of an Outparcel or the Future Development Parcel in writing of the non-compliance within the fifteen (15) day period. The notification shall specify the particulars of the non-compliance, and require the Owner of an Outparcel or Future Development Parcel to remedy the non-compliance. If a non-compliance exists, the Owner shall remedy or remove the non-compliance within a period of not more than thirty (30) days from the date of notification by Declarant. If the Owner of an Outparcel or Future Development Parcel does not comply, or has not undertaken substantial measures toward compliance, within such period, Declarant may seek to remedy the non-compliance utilizing the procedures set forth in Section 9.4, and the prevailing party shall recover all expenses incurred in connection therewith, including Legal Fees and Interest.

Neither Declarant nor its duly authorized representatives shall be liable to any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance of Declarant's rights hereunder. The Declarant shall not be responsible for reviewing, nor shall its approval of any plans, specifications or designs be deemed approval of, any plans, specifications or designs from the standpoint of structural safety or conformance with applicable Laws. Furthermore, approval by Declarant of any architectural designs or plans and specifications does not excuse any Owner from also receiving approvals as required by all applicable Governmental Entities under applicable Laws.

(e) Subdivision. An Outparcel or Future Development Parcel shall never be subdivided without the prior written consent of Declarant and the Owner of the Publix Parcel, and Publix so long as the Publix Lease is in force and effect, which consent may be withheld in the sole discretion of Declarant and the Owner of the Publix Parcel.

7.5 Parking Limitations and Requirements. Except as otherwise permitted in the Publix Lease, the Parking Areas located upon the Shopping Center Property: (i) shall not be fenced, blocked, used for storage or sale, or used in other ways that may impair the free flow of pedestrian or vehicular traffic according to the provisions of this Declaration; (ii) shall not contain any kiosk trailer, or other similar structure or vehicle; (iii) shall not have situated thereon any building or structure; (iv) shall not contain or operate any sign or structure of any nature that prevents clear visibility from the highways, streets, or roads adjoining the Shopping Center Property of the premises occupied by Publix; (v) shall not conduct or operate any business; (vi) shall not contain or operate any carnival or other entertainment; (vii) shall not provide for or

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require a charge of any kind for the use of the Parking Areas; and (viii) shall be ground level only.

7.6 General Maintenance on the Shopping Center Property.

(a) General Maintenance Requirements. Each Owner hereby covenants and agrees to maintain in good condition and repair, or cause to be maintained and kept in good condition and repair the Parking Areas, Paved Areas, and all other areas on their respective property at their own expense. The obligation of the Owners shall, without limiting its generality, include the following:

(1) Maintaining the surfaces of the property at such grades and levels that the property may be used and enjoyed as contiguous and homogeneous common areas, and maintaining the surfaces in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or of similar quality, use and durability;

(2) Removing all papers, debris, filth and refuse and thoroughly sweeping the areas of the property to the extent reasonably necessary to keep the areas in a neat, clean and orderly condition;

(3) Placing, keeping in repair and replacing any necessary and appropriate directional signs, striping markers and lines;

(4) Operating, keeping in repair and replacing, when necessary, such artificial lighting facilities as shall be reasonably required, including but not limited to, parking lot illumination during non-daylight business hours;

(5) Maintaining any perimeter walls and retaining walls in good condition and state of repair;

(6) Maintaining all landscaped areas, making such replacements of shrubs and other landscaping as is necessary, and keeping the areas at all times adequately weeded, fertilized and watered and free of pests and insects;

(7) Maintain, whether occupied or unoccupied, any building or other improvement placed thereon always in a manner as to prevent the building or improvement from becoming unsightly because of unattractive growth or accumulation of rubbish or debris, or the unsightly condition of any improvement thereon. No building or improvement within the Shopping Center Property shall be permitted by its Owner, Lessee, Licensee or Occupant to fall into disrepair. Each such building or improvement shall always be kept in good condition and repair and adequately painted or otherwise finished;

(8) No vehicle, or any other personalty that has wheels, or is or was designed to have wheels, that is incapable of movement using its own power, shall at any time be found on or situated upon any portion of the Shopping Center Property. No tent or trailer of any description, whether readily movable or not, campers, boats, boat trailers, motor homes, vans without side windows other than in the front doors (excluding short term delivery vehicles), shack, tank or temporary or accessory building or structure shall be placed or permitted to remain

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on the Shopping Center Property, except for those used immediately before or during the construction; provided, however, the location within the property under construction and the exterior appearance of any trailer is hereby subject to the written approval of the Declarant. After the completion of construction of the improvements and issuance of a certificate of occupancy, all such tents, trailers of any description, campers, motor homes, vans (excluding short term delivery vehicles), shacks, tanks, temporary and accessory buildings or structures shall be immediately removed. This provision shall not prohibit the use of a tent for grand opening ceremonies or special events, provided such tent is not present on the property for more than seven (7) consecutive days without the prior written consent of the Declarant and further provided that such does not obstruct the visibility of the Publix Storeroom or any pylon or monument identifying the Shopping Center or Publix;

(9) At all times during construction of improvements and installation of landscaping upon any portion of the Shopping Center Property, the Owner of the property on which construction is being performed shall remove construction debris of all kinds from the property and all adjoining streets and premises and, when such construction is substantially completed, the Owner of such property shall promptly and properly clear and remove all debris, equipment and excess, surplus, or remainder of any construction materials of whatever nature from the property and all adjoining streets and premises. No stockpiling of materials shall at any time be permitted on any portion of the Shopping Center Property. The term "stockpiling" as used herein does not include materials delivered to the subject property for imminent use in the ordinary course of construction of improvements on such property; and

(10) All construction on any Owner's property, including, without limitation, the initial construction, shall, once commenced, be pursued continuously, in good faith, and with diligence until completion and with best efforts to minimize inconvenience to other Owners and Occupants, subject to matters beyond the control of the Owner (force majeure).

(11) The Owner of each Outparcel shall make a fixed (subject to adjustment as provided below) annual contribution toward the operation, maintenance, and administrative costs of the common area of the Publix Parcel, initially in the amount of fifty cents (\$.50) per square foot of Leasable Floor Area on its Outparcel, and increasing every five (5) years after the date of recording this Declaration by the cumulative percentage increase over said five-year period in the Consumer Price Index for All Urban Consumers, All Items (1982-84=100) ("CPI") or, if the CPI becomes unavailable, any generally accepted replacement index. The Owner of each Outparcel (or their respective tenants or agents as it may designate) shall be billed by the Owner of the Publix Parcel for each such annual contribution only once in each calendar year commencing after the date of recording this Declaration, and such contribution shall be payable within thirty (30) days after receipt of an invoice therefor.

(b) Nuisances. No Occupant or Owner shall create an unlawful nuisance affecting the Shopping Center Property, or any portion thereof. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any portion of the Shopping Center Property and no odor shall be permitted to arise therefrom so as to render any portion thereof unsanitary, unsightly, offensive, or detrimental to any other portion thereof. No use or operation shall be conducted in, on, or under the Shopping Center Property, or any portion thereof, which is determined as a matter of law to be noxious, objectionable, harmful to public health, or unsightly or detrimental to others in any manner, due to any cause, such as, but not

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limited to, vibration, sound, electromechanical disturbances, electromagnetic disturbances, radiation, air or water pollution, dust or emission of odorous or toxic or nontoxic substances.

(c) Hazardous Materials. Each Owner and/or Occupant of the Shopping Center Property, or any portion thereof, shall comply fully with all applicable Laws concerning "Hazardous Substances" (as hereinafter defined) and shall not do or permit any act or thing to be done that is contrary thereto or contrary to "Insurance Requirements" (as defined herein) or that might otherwise impair the value or usefulness of any portion of the Shopping Center Property, or that is a public or private nuisance or waste. Except as permitted under federal, state or local law, no Owner and/or Occupant shall; (i) use, store, or possess Hazardous Substances on its respective property; (ii) cause or emit, dispose of or discharge Hazardous Substances from its respective property; or (iii) cause or allow the release, emission, migration, disposal, or discharge of Hazardous Substances on the Shopping Center Property or in or on any other adjacent property, or into surface water or ground water in or under the Shopping Center Property, or into the air above the Shopping Center Property or any other adjacent property.

Any Owner and/or Occupant shall promptly notify all other Owners at the address set forth herein or such other address of which such Owner or Occupant has been notified in writing and provide to such Owners copies of any notices, communications, or permits from or to any Governmental Entity issued to such Owner and/or Occupant relating to Hazardous Substances at or in the vicinity of the Shopping Center Property, or any portion thereof.

With respect to this Section 7.6(c), in addition to all other remedies provided herein, each Owner and/or Occupant and Property User shall indemnify and hold harmless the Declarant and all other Owners and/or Occupants and Property Users of the Shopping Center Property from all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including without limitation, all costs arising out of any investigation of the Shopping Center Property, or any portion thereof, all costs incurred in connection with any clean up, removal, or restoration mandated by any Governmental Entity, any decrease in value of the Shopping Center Property, or any portion thereof, or any improvement on the Shopping Center Property, or any portion thereof, and all sums paid for settlement of claims or for fees and costs for attorneys, consultants, or experts) arising during or relating to the ownership, occupancy, or use by any such party and arising out of any violation of the covenants relating to Hazardous Substances contained in this Section 7.6(c). Without in any way limiting the generality of the foregoing, if a party violates any of the covenants relating to Hazardous Substances contained in this Section 7.6(c), and that violation results in contamination of the Shopping Center Property, or any portion thereof, the violating party shall, whether or not such violating party is an Owner and/or Occupant or Property User at the time, at such violating party's sole expense, promptly take all actions necessary to return the Shopping Center Property, or any portion thereof, to its condition before such violation. The indemnification contained in this Section 7.6(c) shall survive the conveyance of title and/or abandonment of the respective property of any such Owner and/or Occupant or Property User.

Notwithstanding anything in this Section 7.6(c) to the contrary, the notice and indemnification provisions of this Section shall not apply to Publix.

(d) Liability Insurance.

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(1) Each Owner shall, at its sole expense, maintain comprehensive, broad form, general liability insurance in an amount not less than Three Million Dollars (\$3,000,000) combined single limit (the "Policy of Insurance"). Such Policy of Insurance shall be issued for periods of not less than one (1) year by responsible insurance companies well rated by national rating organizations and authorized to do business in the State of Georgia. An Owner shall name Declarant, the Owner of the Publix Parcel and all other Owners, and their respective successors in interest, assigns, and mortgagees (as an owner of the respective property) as additional named insureds in its Policy of Insurance. An Owner shall deliver true or certified copies of its Policy of Insurance (or other proof of insurance that is satisfactory to Declarant, the Owner of the Publix Parcel, and all other Owners) to Declarant, the Owner of the Publix Parcel, and all other Owners upon taking title to its property and thereafter at least fifteen (15) days before a policy's date of expiration.

The amount of insurance coverage required by this Section 7.6(d) may be increased on the fifth (5th) year anniversary date of the execution of this Declaration and on every fifth (5th) year anniversary date thereafter to an amount deemed commercially reasonable by Declarant. The increase shall be based on the potential liability that may be incurred by the use of the Shopping Center Property by the Owners for which the insurance coverage requirements of this Section 7.6(d) apply. The increase determined by Declarant shall be binding on all such Owners.

(2) Form of Policies. Any Policy of Insurance required to be maintained hereunder may be taken out under a blanket insurance policy or policies covering other premises or property. The foregoing sentence shall not be construed to permit any owner to carry less than the insurance required hereunder. Any Policy of Insurance shall provide that such policy shall not be canceled without a minimum of thirty (30) days prior written notice to the parties named as additional insureds. Without regard to the form of policy (blanket or otherwise), no Policy of Insurance required to be in force hereunder shall be written with a deductible or self insurance amount greater than Fifty Thousand and no/100 Dollars (\$50,000.00).

(3) Failure to Insure; Self Help. In the event an Owner fails to maintain insurance according to the above provisions, and except as provided in (5) below, Declarant, the Owner of the Publix Parcel, or any other Owner may purchase a policy of insurance for the defaulting Owner and the defaulting Owner shall pay the cost thereof immediately upon demand therefor. In the event any amounts so expended for insurance under this self help provision shall remain unpaid for fifteen (15) days following the date of the invoice to the defaulting Owner, then the party that purchased the policy of insurance shall have the right to exercise any remedy available to it under this Declaration, as set forth in Section 9.4 of this Declaration.

(4) Maintenance After Destruction. If any improvement located on any Outparcel is damaged or destroyed, and if the then Owner of that Outparcel refuses, neglects, elects not to, or fails to repair or restore the improvement so that the repair or restoration is substantially completed within one hundred eighty (180) days from the date of the incident that caused the damage or destruction, such Owner shall then forthwith raze and remove the damaged or destroyed improvement, and landscape or pave and maintain the Outparcel (including, but not limited to, the concealment of any exposed slab or foundation thereof) so that it is consistent with the aesthetic character of the Shopping Center Property, except for delays beyond the control of such Owner (force majeure).

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8. **SHOPPING CENTER NAME CHANGE.** Declarant reserves the right, power and exclusive authority to change the shopping center's name from time to time, subject only to the consent of Publix (which consent shall not be unreasonably withheld or delayed and shall only be required for so long as a Publix is operating a supermarket on a portion of the Publix Parcel and its lease with the Declarant is not default), and nothing within this Declaration shall be construed otherwise.

9. **OTHER PROVISIONS:**

9.1 Assignment of Declarant's Rights. Declarant shall have the right to assign, in whole or in part, any of its rights granted under this Declaration.

9.2 Covenant Running with the Land. All provisions of this Declaration shall, to the extent applicable and unless otherwise expressly provided herein to the contrary, be construed to be covenants running with the Shopping Center Property and with every part thereof and interest therein, and all of the provisions hereof shall be binding upon and inure to the benefit of the Declarant and subsequent Owners of the Shopping Center Property or any part thereof, or interest therein, and their respective heirs, successors, and assigns. However, the same are not intended to create nor shall it be construed as creating any rights in or for the benefit of the general public, unless specifically provided herein to the contrary. All present and future Owners, Lessees, Licensees and Occupants of the Shopping Center Property or any part thereof shall be subject to and shall comply with the provisions of this Declaration as it may from time to time be amended. The acceptance of a deed of conveyance to an Outparcel or any other portion of the Shopping Center Property, or the entering into of a lease of or occupancy of any improvement located within the Shopping Center Property, shall constitute an adoption and ratification by such Owner, Lessee, Licensee or Occupant of the provisions of this Declaration, as it may be amended from time to time. In the event that any easements granted herein shall fail for want of a grantee in being or for any other purpose, the same shall constitute and be a covenant running with the land.

9.3 Notice. Any notice or demand that is required or permitted to be given or served hereunder shall be in writing and shall be deemed to have been sufficiently given and served for all purposes by being addressed as provided herein and deposited, postage prepaid, in the United States Mail, Registered or Certified Mail. Until another address is given by written notice recorded in the Paulding County Public Records, the address for Declarant and the Owner of the Publix Parcel is: 2901 Rigsby Lane, Safety Harbor, Florida 34695 and the address for Publix is: Publix Super Markets, Inc., 1936 George Jenkins Boulevard, Lakeland, Florida 33815, Attn: John Frazier, Vice President of Real Estate, with a copy to McClure & McClure, LLC, 1708 Peachtree Street, N.W., Suite 450, Atlanta, Georgia 30309, Attn: Jay Y. McClure, Esq.. The address for each other Owner for notice purposes shall be the address of the portion of the Shopping Center Property owned by such party, unless Declarant has otherwise been furnished with an alternative address by written notice. Also, a copy of any notice furnished pursuant hereto to any Owner of a portion of the Shopping Center Property shall simultaneously be sent to any Institutional Mortgagee holding a first mortgage lien on a portion of the Shopping Center Property if the party giving such notice has been furnished with written notice of the name and address of the Institutional Mortgagee. Any Owner may change its address for notice by written notice to Declarant.

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9.4 Remedies. In addition to those remedies otherwise provided in this Declaration, and not in limitation thereof, if any party fails to make any payment required by this Declaration when due or required according to this Declaration, the party seeking payment may: (i) withhold such amounts from any amount otherwise payable to the defaulting party under this Declaration or otherwise, without prejudice, subject however, to the right of the defaulting party to contest the right of the other party to levy such charge and to withhold such amounts, or (ii) demand payment by the defaulting party, along with Interest on the unpaid balance accruing from the date such amount became due until paid by the defaulting party. If the defaulting party fails to correct such default for ten (10) days after written notice of such default, the party seeking payment shall have the right to record a lien against the defaulting party's property for the amount of payment sought, plus accrued Interest thereon, plus Legal Fees associated with such enforcement effort, and such lien shall relate back in time for the purposes of such lien's priority as to any other lien, whether equitable or legal, to the date of the recording of this Declaration in the Public Records of Paulding County, Georgia (subject only to the proviso embodied within Section 9.5 herein). Such liens may be enforced by the party seeking payment in the same manner as mortgages are enforced under the laws of the State of Georgia.

Declarant and each Owner shall have the right to enforce all of the covenants and provisions herein contained against the Owners, Lessees, Licensees, Occupants and Property Users of the Shopping Center Property. In the event of violation, Declarant and each Owner shall have the right to prosecute any proceeding in any court of competent jurisdiction, at law or in equity, against such person or persons violating, attempting to violate, or permitting the violation of any such covenant or provision, to prevent and permanently enjoin such violation and to recover damages for such violation. Declarant and each Owner may, with notice apply for and obtain a temporary injunction, if deemed necessary by Declarant or such Owner, as applicable, to prevent any violation of any covenant or provision hereof. The venue for any proceeding pursuant to this Section shall be in the state courts of Paulding County, Georgia. The foregoing enforcement remedy shall be in addition to, and not in limitation of, any other legal or equitable remedies available to Declarant and each Owner. All costs, including Legal Fees, incurred by Declarant or the other Owners in any legal or equitable proceeding shall be borne in whole by the non-prevailing party in such proceeding, through all trial, appellate and postjudgment proceedings.

In the event any Occupant shall violate any of the use restrictions contained in Section 7.1 or Section 7.2 hereof or the Development Restrictions contained in Section 7.4 hereof and upon notice by Publix to the Owner of the Publix Parcel of such violation, the Owner of the Publix Parcel shall promptly commence and expeditiously pursue any and all remedies available to the Owner of the Publix Parcel for the enforcement of said prohibited use provisions, including, without limitation, injunctive relief against such Occupant. For as long as the Publix Lease is in force and effect and is not in default, Publix shall have the right, but not the obligation, to pursue enforcement of any material breach of this Declaration, whether in its own right or in the name of the Owner of the Publix Parcel and the Owner of the Publix Parcel hereby covenants and agrees to cooperate and, to the extent required, participate with Publix in this regard. Any expense, including without limitation Legal Fees, incurred by Publix in enforcement of said restrictions shall be deemed paid or incurred for the account of the Owner of the Publix Parcel and the Owner of the Publix Parcel agrees to reimburse Publix therefor and save Publix harmless therefrom.

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Failure by an affected Owner or Publix to enforce any restriction, covenant, condition, provision, or agreement herein contained which it is permitted to enforce, shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or any breach occurring prior or subsequent thereto.

9.5 Subordination of Lien to Mortgage. Any lien permitted by this Declaration, other than the Declaration itself, shall be subordinate to the lien of any Institutional Mortgagee. A sale or transfer of any portion of the Shopping Center Property shall not affect any such lien. However, the sale or transfer of the Shopping Center Property, or any portion thereof, pursuant to a bona fide mortgage foreclosure or any proceeding or transaction in lieu thereof, shall extinguish such lien as to payment that became due before such sale or transfer, provided, however, the Owner's personal liability for the payment of the indebtedness evidenced by the lien shall not be extinguished by any foreclosure, deed in lieu of foreclosure, or other conveyance of the property. No sale or transfer shall release the Shopping Center Property, or any portion thereof, from liability for any lien or lien amounts thereafter becoming due.

9.6 Lease. A Lessee of any portion of the Property shall, by execution of a lease, be bound by all applicable terms and provisions of this Declaration and be deemed to accept its leasehold estate subject hereto, and hereby agrees to conform and comply with all of the provisions contained herein and to allow Declarant, the Owner of the Publix Parcel and Publix to exercise all rights granted to such entities pursuant to this Declaration.

9.7 Gender. Whenever the context so requires, the use of any gender shall be deemed to include all genders.

9.8 Singular and Plural. The use in this Declaration of the singular shall include the plural and the plural shall include the singular.

9.9 Titles. Article and Section titles in this Declaration are intended only for convenience and for ease of reference and in no way do the titles define, limit or in any way affect this Declaration or the meaning or contents of any material contained herein.

9.10 Severability. Invalidation of any one of these covenants or restrictions by a judgment, court order or any applicable Laws shall in no way affect any other provision, all of which shall remain in full force and effect.

9.11 Modification, Amendment or Release. This Declaration may be amended by Declarant, so long as Declarant owns any portion of the Shopping Center Property, and thereafter by the Owner of the Publix Parcel, as follows:

(a) to amend, release, subordinate, modify or rescind Sections 3.1(c), 4.4, 7, 9.2, 9.4, 9.11 and 9.16 of this Declaration, with the prior written consent of Publix, so long as the Publix Lease is in force and effect, and the other Owners of the Outparcel; provided, however, the consent of Publix and the other Owners of the Outparcel shall not be required if an amendment results in additional restrictions applicable to any portion of the Shopping Center Property other than the Publix Parcel or their respective Outparcel, and further provided that no such amendment conflicts with the restrictions herein; and

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(b) to correct scrivener's errors or make other non-material changes, without the consent of Publix or any other Owner; and

(c) to meet the requirements of an Institutional Mortgagee for the Publix Parcel for the purpose of satisfying its development criteria or such other criteria as may be established by such mortgagee's secondary mortgage market purchasers, without the consent of Publix or any other Owner; provided such amendment does not materially and adversely interfere with the operation of the business of Publix or such other Owner or materially and adversely affect the ingress and egress to their respective property; and

(d) to make any other amendments or modifications to the Declaration with the consent of Publix and the Owner of the Publix Parcel, provided, however, any amendment which materially and adversely affects the rights of any other Owner shall also require the consent of such affected Owner.

Notwithstanding anything contained herein to the contrary, no amendment to this Declaration shall be effective if it materially impairs or prejudices the rights or priorities of Publix or of the Institutional Mortgagee for the Publix Parcel without the prior written approval of Publix and such Institutional Mortgagee. An amendment shall become effective upon recording in the Public Records of Paulding County. Any consent to an amendment required herein shall be evidenced by a signed instrument attached to the amendment and recorded therewith. A true copy of any amendment to this Declaration shall be sent certified mail by Declarant to each Owner and to each Institutional Mortgagee holding a mortgage on any portion of the Property if such Institutional Mortgagee has requested such notice in writing from Declarant. Any consent required by this Section shall not be unreasonably withheld, conditioned or delayed. In addition, the provisions in this Section 9.11 that require the consent of Publix shall only apply if there is a lease in effect for Publix for a portion of the Publix Parcel, and such lease is not in default.

9.12 No Public Dedication. The easements granted herein are not intended, and are not construed, and shall not be construed as a gift or dedication of all or any portion of the Shopping Center Property for public use. The Owners, Lessees, Licensees, Occupants, and all others shall refrain from taking any action that may cause such a dedication and take whatever steps may be necessary to avoid any such dedication, except as may be agreed upon in writing and recorded in the Public Records of Paulding County, Georgia, by all the then Owners, their mortgagees, and their respective successors in interest and assigns. An Owner periodically may restrict ingress and egress in and to its property to prevent a prescriptive easement or any other easement or license from arising by continued public use of the same. Any restriction concerning ingress or egress shall be limited to the minimum time necessary to preclude the creation of a prescriptive easement or otherwise and shall occur at such times as to have a minimum effect on the conduct of business on the Shopping Center Property and such restriction shall take place after giving a minimum of ten (10) business days written notice to all Owners, Lessees, Licensees, and Occupants of public record.

9.13 Content of Lien Notice. The lien notice provided or permitted under this Declaration shall contain a statement of the claim of lien, the description of the property so affected by the lien, the name of the record owner of such property, the amount due, and the date

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when due. Upon full payment of the amount so specified within the notice of lien, the Owner of the affected property shall be entitled to a timely executed and delivered satisfaction or discharge of lien in recordable form.

9.14 Indemnification and Non-Liability. Except as may be otherwise expressly set forth in other provisions of this Declaration, each Owner covenants and agrees, with respect to its own property, to comply with all covenants and provisions herein and with all applicable Laws and to indemnify, defend and hold each other Owner harmless from and against all claims, demands, losses, damages, liabilities and expenses and all suits, actions and judgments (including, but not limited to, Legal Fees) arising out of or in any way related to an Owner's failure to maintain its property in a safe condition or to comply with all covenants and provisions herein and all applicable Laws. Each Owner also covenants and agrees to give prompt and timely notice of any damage or loss incurred, any claim made, or suit or action commenced against another Owner which in any way would result in indemnification under this Section 9.14.

Further, each Owner shall indemnify, defend and hold harmless each other Owner from and against all claims, suits, penalties, liabilities, and expenses (including, without limitation, Legal Fees) for injury to persons (including death) or damage to property arising out of, resulting from, or in connection with, the use by an Owner, their respective Occupants, Lessees, Licensees, and Property Users of any of the easements herein granted.

9.15 No Joint Venture. Nothing within this Declaration is intended, nor shall it be construed to mean, that Declarant, its successors in interest, assigns, or mortgagees, or any other Owner or Owners are partners, shareholders, joint venturers, or otherwise are connected or bound in a business relationship.

9.16 Duration. Succession of Rights and Obligations. The restrictions and all of the terms, conditions, obligations, covenants, and other provisions herein shall bind each portion of the Shopping Center Property, and shall be binding upon and inure to the benefit of Declarant and each Owner of the Shopping Center Property and their respective legal or personal representatives, heirs, successors in interest, assigns, and mortgagees, for a term of twenty (20) years from the date this Declaration is recorded in the Public Records of Paulding County, Georgia, after which time it shall automatically be extended for successive periods of ten (10) years each unless this Declaration is terminated at the end of such initial twenty (20) year period or successive ten (10) year periods by an instrument executed in recordable form by all of the then Owners of the Property, and such instrument shall be recorded in the Public Records of Paulding County, Georgia.

9.17 Discharge of Liens with Priority Over Declaration. The Owner of all or any portion of the Shopping Center Property shall promptly pay and discharge, or cause to be paid and discharged, with respect to any portion of the Shopping Center Property held by such Owner (the "Responsible Party"), on or before the due date, any payment or obligation the lien of which shall have priority over this Declaration. If such payment or obligation is not made by the Responsible Party, then any other Owner (the "Non-Responsible Party") shall have the right to make such payment or do what is necessary to have such obligation discharged; provided, however, nothing herein is intended, nor shall it be construed, to mean that the Non-Responsible Party shall have the responsibility to do so. The Non-Responsible Party making such payment or discharging such obligation shall then be subrogated to the rights of the person or legal entity to

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whom such payment was made and shall be vested with all the rights and remedies of such person or legal entity as the case may be.

9.18 Interpretation of Declaration. This Declaration shall be interpreted by and governed according to the laws of the State of Georgia and the United States of America.

9.19 Counterparts. This Declaration, including all instruments attached hereto, may be executed in counterparts, each of which shall be deemed an original document, and all of which together shall constitute a single document.

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IN WITNESS WHEREOF, Declarant has executed this instrument in its official capacity on the date stated at the beginning of this Declaration.

Signed, Sealed and Delivered
in the Presence of:

**PARADISE SHOPPES OF DALLAS,
LTD. (L.P.)**, a Florida limited partnership

By: **PARADISE DEVELOPMENT
GROUP, INC.**, a Florida corporation, its
General Partner

Witness Signature

Printed Name: Anne Norman

Witness Signature

Printed Name: KIM ZERN

By: Robert L. Hoffman

ROBERT L. HOFFMAN, Vice President

STATE OF GEORGIA)
COUNTY OF FULTON)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by ROBERT L. HOFFMAN, as Vice President of **PARADISE DEVELOPMENT GROUP, INC.**, a Florida corporation, the General Partner of **PARADISE SHOPPES OF DALLAS, LTD. (L.P.)**, a Florida limited partnership, on behalf of the corporation and the partnership. He is personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this 20th day of June, 2003.

RECORDED 8-19 2003
FREYA W. SHELTON, CLERK
SUPERIOR COURT, PAULDING CO

Kathy Raper Davis
Notary Public

Print Name:

My Commission Expires



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WACHOVIA BANK, NATIONAL ASSOCIATION, its successors and assigns, hereby consents and subordinates the lien of its Mortgage to the terms and provisions of the foregoing Declaration of Easements and Restrictive Covenants and agrees to be bound by its terms and provisions.

Signed, Sealed and Delivered
in the Presence of:

**WACHOVIA BANK,
NATIONAL ASSOCIATION**

Robin L. Brockman
Witness Signature
Printed Name: Robin L. Brockman

By: [Signature]
Herb Peck

Janice K Tice
Witness Signature
Printed Name: Janice K Tice

STATE OF Florida
COUNTY OF Hillsborough

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Herb Peck, as Senior Vice President of **WACHOVIA BANK, NATIONAL ASSOCIATION**, on behalf of the bank. He/she is personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this 20th day of June, 2003.



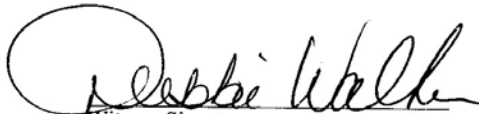
Janice K Tice
Notary Public
Print Name: Janice K Tice
My Commission Expires: _____

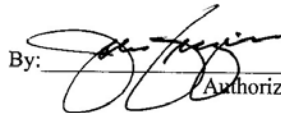
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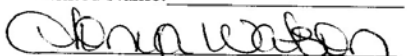
PUBLIX SUPER MARKETS, INC., a Florida corporation, its successors and assigns, hereby consents to the terms and provisions of the foregoing Declaration of Easements and Restrictive Covenants and agrees to be bound by its terms and provisions.

Signed, Sealed and Delivered
in the Presence of:

PUBLIX SUPER MARKETS, INC., a
Florida corporation


Witness Signature
Printed Name: Debbie Walker

By: 
Authorized Signatory


Witness Signature
Printed Name: Tonya Watson

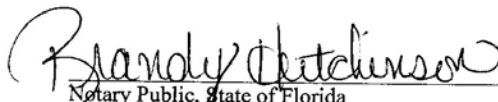
STATE OF FLORIDA)
COUNTY OF POLK)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by John Frazier, as Vice President of **PUBLIX SUPER MARKETS, INC.**, a Florida corporation, on behalf of the corporation. He/she is personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this 8th day of July, 2003.



Brandy Hutchinson
MY COMMISSION # DD094948 EXPIRES
February 24, 2006
BONDED 1000 TOOT FAIR INSURANCE, INC.


Notary Public, State of Florida
Print Name: BRANDY HUTCHINSON
My Commission Expires: 2-24-2006