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 MARTHA O. HAYNIE, COMPTROLLER  
 ORANGE COUNTY, FL  
 05/10/2006 09:06:54 AM  
 REC FEE 78.00

**USE AGREEMENT**

THIS AGREEMENT, entered into by and between Chickasaw Oaks Phase III  
Homeowners, a not-for-profit \_\_\_\_\_  
 corporation (hereinafter the "Association"), and Orange County, Florida, a political subdivision of  
 the State of Florida (hereinafter the "County").

**RECITALS**

WHEREAS, a single-family residential project on a certain parcel of real property  
 (hereinafter the "Property") has been constructed and is located in the unincorporated area of Orange  
 County, as more particularly described in Exhibit "A" attached hereto and by this reference made a  
 part hereof; and

WHEREAS, Association, whose members are or will be the owners of the Property, has  
 been formed to assure the perpetual and continuous maintenance of certain common property and  
 entrance way areas located on and adjacent to the Property; and

WHEREAS, Association desires to obtain a Right-of-Way Utilization Permit (hereinafter the  
 "Permit") from the County, whereby Association will be allowed to install, construct, and maintain  
 the following improvements: Irrigation, Landscape and Lighting

(hereinafter the "Improvement(s)") in the road, median, parkway, and/or drainage areas located within the rights-of-way adjacent to the Property and/or located within those areas which have been, or will be, dedicated to public use (hereinafter collectively referred to as the "Dedicated Areas"), said Dedicated Areas being within the boundaries of, or adjacent to, the Property; and

WHEREAS, County requires that Association undertake certain commitments and covenants to assure the perpetual and continuous maintenance of any such Improvement(s).

NOW, THEREFORE, in consideration of the foregoing and of the terms and conditions set forth herein, the parties agree as follows:

1. **RECITALS.** The foregoing recitals are true and form a material part of this Agreement.
2. **RIGHT-OF-WAY UTILIZATION PERMIT.** County shall issue a Permit to association subject to the terms of this Agreement. Association shall not, while installing or maintaining the Improvement(s), damage or disturb any portion of the Dedicated Areas without prior written approval by County and County's prior written approval of a plan to restore the Dedicated Areas. Nothing contained herein or by virtue of the issuance of a Permit shall give or grant the Association any ownership rights to any portion of the Dedicated Areas.
3. **IMPROVEMENTS.** The Improvement(s) shall be established and maintained in such a manner as will not interfere with the use of the Dedicated Areas by the public nor create a safety hazard on such Dedicated Areas. If the County determines that the Improvements do present a safety hazard, then Association, at its sole expense, shall relocate the Improvement(s) in such a manner so as to eliminate the hazard, to the

satisfaction of the County.

4. **REMOVAL/RELOCATION.** If, in the opinion of the County, the Improvement(s) interfere with any construction, reconstruction, alteration or improvement(s) which the County desires to perform on, around or under the Dedicated Areas, the Association, upon receipt of a written notice from the County, shall remove or relocate the Improvement(s) as requested by the County within thirty (30) days of receipt of said notice, or within thirty (30) days of the first date of publication of legal notice, which publication shall appear in not less than two weekly issues of a newspaper of general circulation in Orange County. Any such relocation or removal of the Improvement(s) shall be at the sole expense of the Association.
5. **INDEMNIFICATION.** To the fullest extent permitted by law, Association shall indemnify and hold harmless Orange County from and against all claims, damages, losses and expenses, including reasonable attorney's fees and costs, arising out of, or resulting from, the performance of their operations under this Agreement. Association shall indemnify and hold harmless the County (and any governmental body or utility authority properly using the Dedicated Areas) from and against all expenses, costs or claims for any damages to the Improvement(s) which may result from the use of the right-of-way by the County or other governmental body or authority due to maintenance, construction, installation, or other proper use within the Dedicated Areas.
6. **INSURANCE.** Throughout the duration of this Agreement, including the initial period and any extensions thereto, Association shall obtain and possess Commercial General Liability coverage for all operations under this Agreement, including but not

limited to Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than \$100,000 Combined Single Limit (CSL) or its equivalent. Prior to commencing operations under this Agreement, Association shall provide Certificates of Insurance to the County to verify coverage. The name of the development, subdivision or project in which the Improvements are to be installed and the type and amount of coverage provided, shall be clearly stated on the face of the Certificates of Insurance. The insurance coverage shall name Orange County as an additional insured, and shall contain a provision which forbids any cancellation, changes or material alterations, or renewal of coverage without providing thirty (30) days prior written notice to the County.

7. **RECORDING.** It is intended that this Agreement shall be recorded in the Public Records of Orange County, Florida. Upon execution of this Agreement, Association agrees to pay to County an amount equal to the applicable cost of recording this Agreement in the Public Records of Orange County, Florida.
8. **COVENANTS RUNNING WITH THE LAND.** It is intended that the provisions of this Agreement shall constitute covenants running with the land or an equitable servitude upon the land, as the case may be, applicable to all of the Property described herein or any portion thereof. It is further intended that this Agreement shall be binding on all parties having any right, title or interest in the Property described herein or any portion thereof, their heirs, personal representatives, successors and assigns. Association declare that the Property described in this Agreement and any portion thereof shall be held, sold and conveyed subject to the provisions of this Agreement. This Agreement shall inure to the benefit of and be

enforceable by the County, its respective legal representatives, successors and assigns.

9. **DURATION**. The provisions, restrictions and covenants of this Agreement shall run with and bind the land for a period of twenty-five (25) years from the date this Agreement is recorded in the Public Records of Orange County, Florida. Thereafter, this Agreement shall be automatically extended for successive periods of ten (10) years each, unless a written instrument agreeing to revoke said provisions, restrictions and covenants is approved by a majority of the Orange County Board of County Commissioners and either (1) the Association, or (2) by the then owners of not less than three-fourths of the lots on the Property described herein. No such agreement to revoke shall be effective until said written instrument has been signed, acknowledged and recorded in the Public Records of Orange County, Florida. Notwithstanding any of the above provisions, the County shall have the right to cancel this Agreement upon thirty (30) days prior written notice to Association or to all of the owners of said lots. No such cancellation shall be effective until a written instrument has been executed and acknowledged by the Board of County Commissioners and recorded in the Public Records of Orange County, Florida.
10. **AMENDMENT**. The provisions, restrictions and covenants of this Agreement shall not be modified or amended except in a written instrument approved by a majority of the Orange County Board of County Commissioners and either by (1) Association, or (2) by the owners of not less than three-fourths of the lots on the Property described herein. No such modification or amendment shall be effective until said written instrument has been signed, acknowledged and recorded in the Public Records of

Orange County, Florida.

11. **COMPLIANCE WITH APPLICABLE LAWS.** Association shall comply with all applicable state laws and county ordinances, including the Orange County Right-of-Way Utilization Regulations.
12. **DISCLAIMER OF COUNTY RESPONSIBILITY.** Nothing contained herein shall create any obligation on the part of the County to maintain or participate in the maintenance of the Improvement(s).
13. **EFFECTIVE DATE.** This Agreement shall take effect upon being recorded in the Public Records of Orange County, Florida.

IN WITNESS WHEREOF, the parties have caused this Agreement to be made and executed as of the day and date first above written.

**ACKNOWLEDGMENT BY ASSOCIATION**

<NAME OF HOMEOWNER'S ASSOC.>

By: Marvin Giger

Print Name: MARVIN GIGER

Title: PRESIDENT

Date: 4/03/06

WITNESSES:

Bridgette Ross

Print Name: Bridgette Ross

Print Name: Bridgette Ross

STATE OF FLORIDA  
COUNTY OF ORANGE

Sworn to and subscribed freely and voluntarily for the purposes therein express before me by Marvin Giger, President of Chickasaw Oaks Phase III, known to me to be the person described in and who executed the foregoing, this 3rd day of April, 20 06. He/she is personally known to me or has produced Personally Known as identification and did/did no take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 3rd day of April, 20 06.



**Bridgette Ross**  
Commission # DD533687  
Expires March 27, 2010

Notary Public

Print Name: Bridgette Ross

My Commission Expires: 3/27/10

**ORANGE COUNTY, FLORIDA**  
By: Board of County Commissioners

By: *Richard T. Crotty*  
Richard T. Crotty  
Orange County Mayor

Date: 5.3.06

ATTEST: Martha O. Haynie, County Comptroller  
As Clerk to the Board of County Commissioners

BY: *Martha O. Haynie*  
Deputy Clerk

STATE OF FLORIDA

COUNTY OF ORANGE

SWORN to and subscribed freely and voluntarily for the purposes therein expressed before me by Richard T. Crotty, Orange County Mayor, known to me to be the person described in and who executed the foregoing, this 3 day of MAY, 2006. He/She is personally known to me or has produced \_\_\_\_\_ as identification and ~~did~~ did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 3 day of MAY, 2006.

*Janet D. Trauger*  
Notary Public  
My Commission Expires:  
**ORANGE COUNTY, FLORIDA**



Janet D Trauger  
My Commission DD203708  
Expires June 27 2007

Exhibit 'A'

**CHICKASAW OAKS - PHASE THREE**  
SECTION 13, TOWNSHIP 23 SOUTH, RANGE 30 EAST  
ORANGE COUNTY, FLORIDA.

LEGAL DESCRIPTION

BEGIN AT THE EAST 1/4 CORNER OF SECTION 13, TOWNSHIP 23 SOUTH, RANGE 30 EAST, ORANGE COUNTY, FLORIDA; THENCE RUN S 00°15'43" E ALONG THE EAST LINE OF SAID SECTION 13, A DISTANCE OF 1887.47 FEET; THENCE LEAVING SAID EAST LINE, RUN N 57°57'04" W A DISTANCE OF 1080.00 FEET; THENCE WEST A DISTANCE OF 130.00 FEET; THENCE NORTH A DISTANCE OF 253.97 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 1470.00 FEET WITH A DELTA OF 45°17'59"; THENCE RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE 1182.22 FEET TO THE POINT OF TANGENCY; THENCE N 45°17'59" W A DISTANCE OF 743.28 FEET TO THE EXISTING RIGHT OF WAY OF CHICKASAW TRAIL AS RECORDED IN OFFICIAL RECORD BOOK 3258, PAGES 1881/1882, ORANGE COUNTY, FLORIDA; THENCE N 44°42'01"E ALONG SAID RIGHT OF WAY 80.00 FEET TO THE SOUTHWESTERLY BOUNDARY OF CHICKASAW OAKS-PHASE ONE, AS RECORDED IN PLAT BOOK 11, PAGE 17, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE RUN S 45°17'59" E ALONG SAID BOUNDARY 875.00 FEET TO THE SOUTHWEST CORNER OF SAID CHICKASAW OAKS-PHASE ONE, SAID POINT ALSO BEING ON THE EAST-WEST CENTER LINE OF AFORESAID SECTION 13; THENCE RUN N 89°48'45" E ALONG THE SOUTH LINE OF CHICKASAW OAKS-PHASE ONE, AND ALONG THE SOUTH LINE OF CHICKASAW OAKS-PHASE TWO, AS RECORDED IN PLAT BOOK 11, PAGE 143/144 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, 1478.77 FEET TO THE POINT OF BEGINNING.  
CONTAINING 44.389 ACRES, MORE OR LESS.