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EXHIBIT B

LIBER 2241 FOLIO 137

DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS,  
AND RESERVATION OF EASEMENTS  
OF  
BERRY VALLEY COMMUNITY  
ASSOCIATION, INC.

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**DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS,  
AND RESERVATION OF EASEMENTS**

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**DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS,  
AND RESERVATION OF EASEMENTS**

This **DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND RESERVATION OF EASEMENTS** ("Declaration") made this \_\_\_\_\_ day of \_\_\_\_\_, 1996, by Louis Raye Vest, Barbara L. Vest, George W. Finch, and Barbara R. Finch, individually (hereinafter referred to as the "Developer").

**RECITALS:**

The Developer is the owner of certain land located in Charles County, Maryland which is more particularly described in Exhibit A attached to this instrument and incorporated herein by reference. That land, together with such additional lands as are subjected to this Declaration in the future, is referred to in this Declaration as the "Property" and is generally known as "Berry Valley." The Developer wishes to establish and assure a uniform plan for the development of the Property, and to enhance and protect the economic and aesthetic value and desirability of the Property and the health, safety and welfare of the residents of the Property.

The Property is in proximity to several tracts of land, more particularly described in Exhibit B attached hereto and made a part hereof, portions of which the Developer owns and/or portions of which Developer may, but is not obligated, to acquire. Such additional tracts of land as Developer determines will be developed in sections and may be annexed to and made a part of the Property subject to this Declaration. The Developer shall not be obligated, however, to acquire, develop or annex any of such additional land. Any such annexation will be governed by the provisions for annexation of land contained herein.

**NOW, THEREFORE**, the Developer declares that the Property is hereby subjected to and shall be held, sold, occupied and conveyed subject to this Declaration.

The Developer further declares that this Declaration and all amendments and supplements to this Declaration shall operate as covenants running with the land for the benefit of each and all Lots and Dwelling Units, and shall be binding upon the Developer, the Association, each Owner, each Trustee (so long as he owns a legal or beneficial interest in all or part of the Property), and their respective heirs, successors and assigns, and all parties claiming under them or under this Declaration, including without limitation, First Mortgagees; and shall inure to the benefit of and be enforceable by the Developer, the Association and each Owner.

**Article I - Definitions**

The following words, when used in this Declaration, shall have the following meanings:

- 1.01. "Act" means the Maryland Homeowners Association Act and all amendments

thereto and regulations issued thereunder.

1.02. "Additional Land" is defined in Article VIII hereof.

1.03. "Annual Assessment" means the assessment levied by the Association in each of its fiscal years pursuant to Article IV, which assessment shall include an Annual Community Assessment and, to the extent applicable, an Annual Cluster Assessment.

1.04. "Annual Cluster Assessment" means the portion of the Annual Assessment levied to defray the costs incurred in connection with the Cluster Community Facilities, if any, pursuant to Article IV.

1.05. "Annual Community Assessment" means the portion of the Annual Assessment levied to defray the costs incurred in connection with Community Facilities, pursuant to Article IV.

1.06. "ASC" or "Architectural Standards Committee" means the committee organized by the Developer to administer, interpret and enforce the Design Code for the initial construction, development and building of and on Lots, Structures, and Community Facilities.

1.07. "Articles of Incorporation" means the Articles of Incorporation of Berry Valley Community Association, Inc. and all amendments thereto as recorded among the corporate records of the State of Maryland.

1.08. "Assessment" means collectively the Annual Assessment and any Special Assessment.

1.09. "Assessable Property" means all of the Property except such part of parts thereof as may from time to time constitute Exempt Property.

1.10. "Association" means Berry Valley Community Association, Inc., a Maryland non-stock not-for-profit corporation, and its successors and assigns.

1.11. "Board of Directors" or "Board" means the Board of Directors of the Association and the comparable governing body of any successor or assign of the Association.

1.12. "Bylaws" or "bylaws" means the Bylaws of Berry Valley Community Association, Inc. and all amendments thereto as adopted by the Board of Directors of the Association and any comparable governing body of any successor or assign of the Association.

1.13. "Class A Member" is defined in Section 6.01 of the Articles of Incorporation.

1.14. "Class B Member" is defined in Section 6.01 of the Articles of Incorporation.

1.15. "Cluster" means an administrative unit and geographic area of related Lots identified as such in this Declaration or in a recorded supplement to this Declaration.

1.16. "Cluster Committee" means the committee so named for each Cluster and established in accordance with the Bylaws of the Association.

1.17. "Cluster Community Facilities" means portions of the Community Facilities, which are designated as such pursuant to this Declaration, any amendment or supplement to this Declaration, or on a recorded plat, and which are located within a particular Cluster or are primarily for the benefit of Residents who Lots are within a particular Cluster.

1.18. "Community Facilities" means all real property described in Exhibit C attached hereto and made a part hereof, and the improvements thereon from time to time owned or leased by the Association for the common use and enjoyment of the members. In addition, the term "Community Facilities" shall include (i) any parcel or tract of land which is or may be annexed to the Property pursuant to Article VIII and owned or leased by the Association for the common use and enjoyment of the Members, (ii) any parcel or tract of land and/or improvements leased to the Association for the common use and enjoyment of the Members, and (iii) the Cluster Community Facilities, if any. Such property and improvements may, but need not, include: any common areas, private roads, sidewalks, paths, and open space not dedicated to the public; public, neighborhood or recreational facilities or community buildings; swimming pools; vehicle parking areas not otherwise a part of a Lot (hereinafter defined); tennis courts and/or multipurpose courts; tot lots; and/or other comparable facilities. Notwithstanding the foregoing, this Declaration does not obligate the Developer to include any specific amenity, or any amenity at all, in the Community Facilities. The Developer makes no representation or warranty in this Declaration as to what will be included in the Community Facilities or as to any of the Community Facilities.

1.19. "DRB" or "Design Review Board" means the committee so named and established in accordance with Article VII of the Bylaws.

1.20. "Declaration" means this Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements, as it may from time to time be amended or supplemented.

1.21. "Delinquent," with respect to an Assessment, is defined in Section 4.12(a).

1.22. "Design Code" means the Mixed Residential Cluster Design Code, Berry Valley, Charles County, Maryland, as amended from time to time, which establishes the architectural and design standards for the Property.

1.23. "Developer" means Louis Raye Vest, Barbara L. Vest, George W. Finch, and Barbara R. Finch, individually, and its successors and assigns; provided, however, that no successor or assignee of Developer shall have any rights or obligations of Developer under this

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Declaration except those rights and obligations which (a) are specifically set forth in an instrument of succession or assignment, designating a party as the Developer for purposes of this Declaration and recorded in the land records of Charles County, Maryland; or (b) pass by operation of law.

1.24. "Development Period" means the period beginning on the date of this Declaration and ending on the earlier to occur of (a) the twentieth (20th) anniversary of the date on which any Lot is first conveyed to an Owner other than the Developer or a Participating Builder; or (b) the first day following the first date on which the Developer owns no part of the Property. Notwithstanding the foregoing sentence, the Development Period and the rights of the Developer as a Class B Member shall be reinstated if the Developer, within twelve (12) months following the first date on which the Developer owns now part of the Property, annexes additional Lots to this Declaration in accordance with the terms hereof.

1.25. "Dwelling Units" or "dwelling unit" means any Structure or portion of a Structure constructed on a Lot and intended to be used and occupied as a residence.

1.26. "Easement Area" is defined in Section 9.01(b).

1.27. "Exempt Property" shall mean and refer to the following portions or parts of the Property as long as they are not devoted to dwelling use:

(a) All land and Structures owned by the United States, the State of Maryland, Charles County, or any instrumentality, or agency of any such entity and used or held by such entity, instrumentality or agency for a public purpose for so long as any such entity, instrumentality or agency shall be the owner thereof.

(b) All land and Structures and Community Facilities owned by the Association for so long as the Association shall be the owner thereof.

(c) All land and Structures to the extent that they are exempt from taxation by both Charles County and the State of Maryland by virtue of applicable law.

(d) All land (and the Structures located on such land) which is not shown upon any recorded subdivision plat.

(e) All Utility Lots shown upon any recorded subdivision plat of all or portions of the Property.

1.28. "Federal Home Loan Mortgage Corporation" or "FHLMC" means the governmental agency so entitled and any agency or regulatory authority of the United States of America which succeeds it.



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1.29. "Federal Housing Administration" or "FHA" means the governmental body of the United States of America which is so entitled and any agency or regulatory authority of the United States of America which succeeds it.

1.30. "Federal National Mortgage Association" or "FNMA" means the governmental agency so entitled and any agency or regulatory authority of the United States of America which succeeds it.

1.31. "First Mortgagee" means FNMA, FHLMC or a Person who on behalf of FNMA or FHLMC holds a first lien mortgage on a Lot, or is a beneficiary under a first lien deed of trust on a Lot.

1.32. "Guarantor" means a governmental guarantor of the payment of any indebtedness secured by a first mortgage or first deed of trust on a Lot.

1.33. "Insurer" means the Federal Housing Administration, or an agency, division or branch thereof, which has insured the payment of any indebtedness secured by a first mortgage or first deed of trust on a Lot.

1.34. "Land Development Activity" means any building, construction, finish, rehabilitation, restoration, reconstruction or repair activity on any portion of the Property and/or Additional Land, including but not limited to construction or installation of roadways, curbing, paths, sidewalks, utility services, construction of temporary or permanent improvements on Community Facilities or any other Structure on a Lot or any other portion of the Property, by the Developer, a Participating Builder and/or by any other Person regularly engaged in the building or construction business at the Property pursuant to the written request on behalf of the Developer.

1.35. "Lot" means any plot of land shown upon any recorded subdivision map of the Property upon which a Dwelling Unit is permitted or required to be constructed in accordance with Charles County zoning ordinances (exclusive of any parcel or tract of land which is zoned for commercial use in accordance with Charles County zoning ordinances) and to the extent any such parcel of land is improved by a Dwelling Unit, such term shall include the Dwelling Unit. The term "Lot" does not include the Community Facilities or any "Utility Lots" as such term is defined in Section 9.01(c).

1.36. "Maximum Annual Cluster Assessment" is defined in Section 4.05.

1.37. "Maximum Annual Community Assessment" is defined in Section 4.04.

1.38. "Member" means a member of the Association, including all Class A Members and the Class B Member.

1.39. "Mortgage" means a mortgage, deed of trust and other like security instruments.

1.40. "Owner" means (a) the owner of record from time to time, whether one or more Persons, of an interest in fee simple of a Lot; (b) the lessee of a Lot under a 99-year lease; and (c) a contract seller, but not purchaser, of such Lot or leasehold interest. The term "Owner" does not include the Association or any person having an interest in a Lot merely as security for the performance of an obligation, but does include a mortgagee who has acquired one of the above enumerated interests in a Lot by foreclosure of conveyance in lieu of foreclosure. The term "Owner" shall not include a purchaser who acquires record title to a Lot from a Participating Builder as part of a transaction for construction of a Dwelling Unit if the Participating Builder retains the right to possession of the Lot; such purchaser shall be an Owner when he obtains the right to possession of the Lot, and the Participating Builder shall be the Owner of the Lot prior to such time.

1.41. "Participating Builder" shall mean and refer to a Person (a) designated in writing by the Developer as a Participating Builder, and/or (b) owning one or more Lots on which it is construction Dwelling Units for sale to Owners or prospective Owners.

1.42. "Person" means any individual, corporation, joint venture, partnership, association, joint stock company, trust, unincorporated organization or government (or any agency or political subdivision of a government) or any other legal entity.

1.43. "Property" means the land in Charles County, which is described in Exhibit A, together with such portion or portions of the Additional Land as shall be subjected to this Declaration in the future in accordance with the requirements of this Declaration.

1.44. "Resident" means all of the following:

(a) Each lessee of a Lot who actually occupies that Lot and who, if requested by the Secretary of the Association, has delivered a copy of his lease agreement, on which copies of the signatures appear, to the Secretary of the Association; and

(b) Any other Person who actually resides in a Dwelling Unit located on the Lot.

1.45. "Special Assessment" means a Special Cluster Assessment and/or Special Community Assessment.

1.46. "Special Cluster Assessment" means any special charge established and levied by the Association pursuant to Section 4.07.

1.47. "Special Community Assessment" means any special charge established and levied by the Association pursuant to Section 4.06.

1.48. "Structure" means all of the following:

(a) Any Community Facility; and

(b) Any thing or object (other than trees and hedges less than four (4) feet high, shrubbery, and landscaping), the temporary or permanent placement of which upon any Lot may affect the appearance of the Lot, including but not limited to any building, garage, porch, shed, greenhouse, bathhouse, coop, cage, house trailer, covered or uncovered patio, deck, swimming pool, fence, screen, parapet, curbing, paving, wall, signboard or other temporary or permanent improvement on the Lot; and

(c) Any excavation, fill, ditch, dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Lot; and

(d) Any change of more than six (6) inches in the grade of any Lot.

1.49. "Trustees" shall be deemed to refer to those Persons who are identified as such on the signature pages hereto.

1.50. "Veterans Administration" or "VA" means the governmental agency of the United States of America which is so entitled and any agency or regulatory authority of the United States of America which succeeds it.

## Article II - Community Facilities

### 2.01. Rights of Enjoyment of Community Facilities.

(a) Each Owner shall have a right and non-exclusive easement of enjoyment in, on, and to the Community Facilities subjected to this Declaration. The said right and easement shall be appurtenant to and shall pass with the title to each Owner's Lot. No Owner of a Lot shall thereby have any exclusive right to own, occupy or use adjoining public or private streets or adjoining open space or other common areas.

(b) Subject to the provisions of Section 2.01(c) below, each Resident shall have a non-transferable right to use and enjoy the Community Facilities, which right shall terminate when that person ceases to have the status of a Resident.

(c) The Association shall have the authority to (but shall not be required to) adopt, amend and enforce rules and regulations which permit guests of an Owner or Resident to have, under conditions stated in the regulations, a revocable, non-exclusive license or privilege to use and enjoy all specified Community Facilities. The rules and regulations, for example, may

limit the number of such guests who may use any Community Facility at any one time and may prescribe reasonable fees for guests. Such rules and regulations shall be binding on the Owners and Residents and their respective invitees, successors and assigns as if fully set forth in or otherwise incorporated in this Declaration.

(d) Notwithstanding Subsections (a), (b), and (c) above, the easements and rights provided for in such Subsections above shall be subject to the following:

(i) The right, but not the obligation, of the Developer to construct additional Community Facilities in accordance with Section 2.02; and

(ii) All other easements, restrictions and rights of record to which the Community Facilities are subject including without limitation the provisions of Article IX below.

(iii) The power and authority of the Association to regulate the Community Facilities as provided in the Articles of Incorporation, Bylaws, any statute, order, ordinance, rule or regulation of any governmental authority having jurisdiction over the Property, and in Subsection (e) below.

(e) The Association shall have the following specific powers and authority with regard to the Community Facilities, such powers and authority to be in addition too such as are set forth in the Articles of Incorporation, Bylaws, or any statute, order, ordinance, rule or regulation of any governmental authority having jurisdiction over the Property:

(i) The Association shall have the power and authority from time to time, but not the obligation, to adopt, amend, and enforce rules and regulations pertaining to the use of the Community Facilities including but not limited to rules and regulations which enhance the preservation of the Community Facilities and the safety and convenience of the users of them; and

(ii) The Association shall have the power and authority from time to time, but not the obligation, to establish and charge reasonable admission and other fees for the use of the Community Facilities; and

(iii) The Association shall have the power and authority from time to time, but not the obligation, to suspend the right and license of any Resident and the right and easement of any Owner to use all or any portion of the Community Facilities for violations of this Declaration or the Board's rules and regulations; and

(iv) Notwithstanding paragraph (iii) above, the Association shall have the power and authority under Section 4.13(d) from time to time, but not the obligation, to suspend the right of any Class A Member other than Participating Builders to use the Community Facilities for so long as any part of an Assessment for such Lot is Delinquent; and

(v) The Association shall have the power and authority from time to time, but not the obligation, to grant, modify, amend or supplement easements, licenses, or rights-of-way to any public or private utility entity, public service entity, or public agency upon the approval of the Members as provided in the Bylaws; provided that the Association, without the further consent of the Members, shall join in with the Developer in the execution of or to independently execute, upon request of the Developer, deeds of dedication, subdivision, resubdivision, and easements for the development of the Property and for the dedication of streets and roads for public use and the granting of easements or rights-of-way in connection with Land Development Activity; provided further that if Developer exercises its rights under Section 9.01(a) below or under any other provision of Article IX, then upon request of Developer and/or any utility company, governmental agency or other entity which is a party to an agreement or document contemplated in Article IX below, the Association, without the further consent of the Members, shall execute such agreement or document to subject its right, title and interests in the Property to the terms, conditions and provisions of such agreement or document; and

(vi) The Association shall have the power and authority from time to time, but not the obligation, to borrow money for the purposes of construction, equipping, renovating, repairing, improving or maintaining the Community Facilities and to mortgage the Community Facilities as security for such borrowing, but only with the approval of the Members as provided in the Bylaws. Any such mortgage instrument shall provide that, in the event of a default, the lender's rights or the rights of any persons succeeding to the interest of the lender shall be limited to a right, after taking possession of the mortgaged property, to charge reasonable admission and other fees as a condition to continued enjoyment by the Members and, if necessary, to open the enjoyment of such property to a wider public until the mortgage debt is satisfied, at which time the possession of the mortgaged property must be returned to the Association and all rights of the Members hereunder shall be fully restored; and

(vii) The Association, pursuant to Section 2.03, shall have the power and authority, but not the obligation, to convey or lease to other Persons all or any part of the Community Facilities, upon the approval of the Members as provided in the Bylaws; any lease shall be for a period of time not to exceed twenty-four (24) consecutive hours; and

(viii) The Association shall have the power and authority to assign, appoint or otherwise designate one or more vehicular parking spaces located on any portion of the Community Facilities for the exclusive use of Residents or Owners of a Lot or their guests; and

(f) Notwithstanding anything herein to the contrary or implied by law, each Owner shall own his or her interest in a Lot, each Resident shall take possession of a Dwelling Unit, and each other Person from time to time having any legal and/or beneficial and/or equitable interest in any Lot or other portion of the Property shall understand, and be held to have understood, that neither the Association nor any Owner or any Resident or anyone claiming, by, through or under such Owner or Resident shall have any interest, legal, equitable or otherwise, in

all or any portion of the Additional Land or the facilities and improvements thereon, except and to the extent such portion of the Additional Land is annexed to this Declaration pursuant to the terms thereof.

**2.02. Additional Community Facilities.**

(a) During the Development Period, the Developer from time to time may, but shall not be obligated to, (i) annex Additional Land; (ii) construct addition Community Facilities on property owned by the Association; and (iii) convey to the Association, as additional Community Facilities, additional real property along with any Structure located thereon, and the Association shall be bound to accept such additional Community Facilities so long as the conveyance has been (i) made in accordance with Article VIII, below or (ii) approved by the Federal Housing Administration, FNMA, FHLMC and/or the Veterans Administration, as appropriate, or is otherwise in compliance with rules, regulations, and guidelines promulgated by such institutions. If such institutional approval is required and has not been communicated to the Developer within sixty (60) days after written notice to such agency of the intended action, then such agency shall be deemed to have consented to such action.

(b) The Association may not construct any capital addition or capital improvement to the Community Facilities or annex any additional Community Facilities unless the addition, improvement or annexation has been authorized by the Board of Directors and, during the Development Period, by the Developer. In addition, if the cost to the Association of such action and of similar actions in the same fiscal year of the Association exceeds, in the aggregate, \$25,000 plus an inflation factor as provided below, the action must also be approved by (i) more than two-thirds (2/3) of the votes cast by the Class A Members who are voting in person or by proxy at a meeting of the Members duly called for such purpose at which a quorum is present; and (ii) during the Development Period, the Developer. The inflation factor for purposes of this paragraph shall be \$25,000 times the percentage increase in the "Consumer Price Index for All Urban Consumers, Washington, D.C., Maryland and Maryland," published by the United States Department of Labor, Bureau of Labor Statistics from the date of this Declaration through the most recent publication of that index prior to the date the action is approved by the Board of Directors. If publication of that index ceases, the inflation factor shall be determined in the same manner, using (i) whatever index the U.S. Department of Labor designates as the successor to that index, or (ii) if no such designation is made, whatever available index the Board of Directors, in its sole discretion, deems closest to equivalent.

**2.03. Conveyance of Community Facilities.** The Association may at any time dedicate or transfer all or a part of the Community Facilities to any public agency or organization including, without limitation, Charles County, or to any nonprofit organization, upon such terms and conditions as are agreed upon by that agency, authority or organization and the Association, including, without limitation, (a) provisions for the use of such Community Facilities by the public in general, and (b) provisions for the maintenance and repair of the affected Community Facilities, and (c) the assessment of owners and/or Residents for the costs of their maintenance

and repair. Any such dedicate or transfer shall be effective only upon the approval of the Members as provided in the Bylaws. Sections 10.01 and 10.02 below may require the consent of the Veterans Administration and/or the Federal Housing Administration and/or the Charles County Planning Commission for certain of such actions. Any dedication or transfer shall be further subject to applicable laws and regulations governing Maryland non-stock corporations.

**2.04. No Warranty.** The Developer makes no warranty whatsoever as to the Community Facilities, except only those warranties implied by law which cannot be waived.

**2.05. Dedication of Community Facilities.** It is contemplated that the Community Facilities will be conveyed to the Association by deed from the Developer. Nevertheless, any recorded plat depicting Community Facilities shall contain affirmative provisions (referring to this Declaration) to the effect that the Community Facilities are intended for the exclusive use and enjoyment of Owners and Residents and their guests, and that the Community Facilities area not dedicated for use by the general public but are only dedicated to the common use and enjoyment of the Owners and Residents and their guests. Notwithstanding the foregoing, the omission of any of such affirmative provisions shall not result in any grant of rights to the general public or other Persons other than Owners, Residents, and their respective guests, and shall not in any way adversely affect the creation of such Community Facilities.

**Article III - Association Organization, Membership,  
Voting Rights, Board of Directors, Meetings of Members**

**3.01 Organization of the Association.**

(a) The Association has been or will be organized as a nonprofit, non-stock corporation under the laws of the State of Maryland (i) to provide for the acquisition, construction, management, maintenance and care of the Community Facilities; (ii) to obtain, manage and maintain services for the Priority or portions thereof, including (without limitation), as necessary, refuse collection and street cleaning; and (iii) to take other actions which will promote the recreation, health, safety and welfare of the Owners and Residents. The Association is assigned such further duties and granted such powers as are prescribed by law and/or set forth in the Articles of Incorporation of the Association and in this Declaration, as all of them may be amended from time to time. No part of the net earnings of the Associations shall inure to the benefit of any Member, other than (a) as compensation for providing management, maintenance and care of Community Facilities or other services, or (b) by a rebate of any excess Annual Assessment, Special Assessment or other dues or fees.

(b) The Developer may, but is not obligated to, create more than the one Cluster on the Property or any portion thereof. If the Developer determines to create one or more additional Clusters, it shall do so by identifying such Cluster in a Supplementary Declaration recorded among the land records of Charles County, Maryland, in the manner described generally under Article VIII of this Declaration.

### 3.02 Board of Directors.

(a) The business and affairs of the Association shall be managed by a Board of Directors elected by the members.

(b) The Bylaws of the Association shall govern the timing and conduct of meetings of the Board of Directors.

(c) The board of Directors may establish, adopt, and enforce whatever rules and regulations, consistent with this Declaration, the Articles of Incorporation, and the Bylaws of the Association, and subject to the operation of the Act, which the Board of Directors deems advisable with respect to any actions to be taken by the Board of Directors.

## Article IV - Assessments

### 4.01 Purpose of Assessments.

(a) Annual Community Assessments and Special Community Assessments shall be used exclusively to carry out the rights, responsibilities, purposes or business of the Association, including but not limited to (i) the acquisition, construction, management, rehabilitation, restoration, maintenance, care and operation of the Community Facilities (exclusive of Cluster Community Facilities, if any, except as otherwise provided in this Declaration); (ii) obtaining, managing, maintaining or providing services for the Property (exclusive of Cluster Community Facilities, if any, except as others provided in this Declaration) or portions thereof, including but not limited to refuse collection and street cleaning; (iii) the insurance responsibilities assigned to the Association in Article V; and (iv) promoting or protecting the recreation, health, safety and welfare of the Owners and Residents.

(b) Annual Cluster Assessments and Special Cluster Assessments shall be used exclusively to defray the costs incurred by the Association in connection with the Cluster for which they are assessed, including but not limited to (i) the acquisition, construction, management, rehabilitation, restoration, repair, maintenance, care and operation of particular Cluster Community Facilities; (ii) obtaining, managing, maintaining or providing services for the particular Cluster or portions thereof, including but not limited to refuse collection and street cleaning; (iii) insurance responsibilities, if any, which the Association may delegate to the Cluster Committee, or risks of insurance attributable to particular Cluster Community Facilities and covered by insurance maintained by the Association; and (iv) promoting or protecting the recreation, health, safety and welfare of the Owners and Residents of Lots located within a particular Cluster.



**4.02 Establishment of Annual Community Assessment.**

The Association has the power to and may levy an Annual Community Assessment in each of its fiscal years against each Lot which is not Exempt Property. The amount of such Annual Community Assessment for any fiscal year of the Association shall be established for each Lot by the Board of Directors, subject to the limitations imposed by Sections 4.04 and 4.11 below. Such Annual Community Assessment shall be established at least thirty (30) days in advance of the beginning of the fiscal year to which the Annual Community Assessment applies.

**4.03. Establishment of Annual Cluster Assessment.**

The Association has the power to and may levy an Annual Cluster Assessment in each of its fiscal years against each Lot which is not Exempt Property located in a particular Cluster. The amount of such Annual Cluster Assessment for any fiscal year of the Association shall be established for each Lot within a particular Cluster by the Board of Directors with the advice of the Cluster Committee for that particular Cluster, subject to the limitations imposed by Section 4.05 and 4.11 below. The Association shall determine when to establish the Annual Cluster Assessment for any particular Cluster, and all other matters with respect to Annual Cluster Assessments which are not specifically addressed in this Declaration. The Association may include in such Annual Cluster Assessment the cost of insurance premiums paid for by the Association with respect to particular Cluster Community Facilities and/or such other expenses attributable to particular Cluster Community Facilities, generally, provided that the Association allocates among Owners of Lots located in Clusters and then among the Owners within each particular Cluster such Owner's proportionate share of such expenses. The Association shall determine the appropriate allocation among Clusters for such expenses.

**4.04. Maximum Annual Community Assessment.**

(a) The initial Annual Community Assessment, imposed on each Lot in any fiscal year of the Association may not exceed Two Hundred Eighty-Five Dollars (\$285.00) which amount, adjusted as provided in Subsection (b) below, is referred to in this Declaration as the "Maximum Annual Community Assessment."

(b) For each fiscal year of the Association beginning January 1 of the year immediately following the conveyance of the first lot to an Owner who is not the Developer or a Participating Builder, the Board of Directors may increase the Maximum Annual Community Assessment for each Lot by the greater of (i) a factor of not more than ten percent (10%) of the applicable Maximum Annual Community Assessment for the fiscal year of the Association or (ii) the percentage increase, over the one-year period ending five (5) months before the first day of the fiscal year of the Association for which the increase is to be effective, in the "Consumer Price Index for All Urban Consumers, Washington, D.C., Maryland, and Maryland," published

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by the United State Department of Labor, Bureau of Labor Statistics (the "Index"). If publication of that Index ceases, item (ii) above shall be determined in the same manner, using (A) whatever index the U.S. Department of Labor designates as the successor to that Index, or (B) if no such designation is made, whatever available index the Board of Directors, in its sole discretion, deems closest to equivalent. The Maximum Annual Community Assessment, however, may be increased above the limits established above by the amount by which any ad valorem real estate taxes and casualty and other insurance premiums payable by the Association have increased over amounts payable for the same or similar items for the previous year.

(c) Notwithstanding the limits on the Maximum Annual Community Assessment set forth in Subsection (b) above, the Maximum Annual Community Assessment for each Lot may be increased by more than would otherwise be permitted by Subsection (b) above, but only with the approval of (i) more than two-thirds (2/3) of the votes cast by the Class A Members, who are voting in person or by proxy at a meeting of the Members duly called for such purpose at which are present (in person or by proxy) Class A Members, and who are Owners of at least sixty percent (60%) of the Lots; and (ii) during the Development Period, the Developer. If the said sixty percent (60%) of such Class A Members does not attend a meeting of the Members duly called for such purpose, the meeting may be adjourned for not less than ten (10) days nor more than sixty (60) days to a meeting at which, to be effective, there must be present (in person or by proxy) Class A Members who are Owners of at least thirty percent (30%) of the Lots.

#### 4.05. Maximum Annual Cluster Assessment.

(a) The initial Annual Cluster Assessment imposed on each Lot within the first Cluster in any fiscal year of the Association may not exceed Two Hundred Dollars (\$200.00) and shall be referred to in this Declaration as the "Maximum Annual Assessment." If another Cluster is created pursuant to the terms of this Declaration, then the Board shall establish the Annual Cluster Assessment for such Cluster (adjusted for the balance of the applicable fiscal year of the Association) on or before the date such is created. The Maximum Annual Cluster Assessment for the first cluster, as set forth above, and the initial Annual Cluster Assessment for each other Cluster, if any, shall each be referred to as the "Maximum Annual Cluster Assessment" for each Cluster.

(b) For each fiscal year of the Association beginning after the fiscal year in which a particular Cluster is established, the Association may increase the initial Annual Cluster Assessment for each Lot within such particular Cluster by the greater of (i) a factor of not more than ten percent (10%) of the applicable Maximum Annual Cluster Assessment. For the preceding fiscal year of the Association or (ii) the percentage increase, over the one-year period ending five (5) months before the first day of the fiscal year of the Association for which the increase is to be effective, in the "Index" defined in Section 4.04 above. If publication of that Index ceases, item (ii) above shall be determined in the same manner, using (A) whatever index the U.S. Department of Labor designates as the successor to that Index, or (B) if no such

designation is made, whatever available index the Board of Directors, in its sole discretion, deems closest to equivalent. The Annual Cluster Assessment, however, may be increased above the limits established above by the amount by which ad valorem real estate taxes and casualty and other insurance premiums payable by the Association to the particular Cluster have increased over amounts payable for the same or similar items for the previous year.

(c) Notwithstanding the limits on the Annual Cluster Assessment set forth in Subsection (b) above, the Annual Cluster Assessment for each Lot in a particular Cluster may be increased by more than would otherwise be permitted by Subsection (b) above, but only with the approval of (i) more than two-thirds ( $\frac{2}{3}$ ) of the votes cast by Class A Members who are Owners of Lots in such Cluster and who are voting in person or by proxy at a meeting of such Owners duly called for such purpose at which are present (in person or by proxy) Class A Members, who are Owners of at least sixty percent (60%) of the Lots in such Cluster; and (ii) during the Development Period, the Developer.

#### 4.06. Special Community Assessments.

(a) In addition to the Annual Community Assessment, the Association has the power to and may levy a Special Community Assessment on all Lots which are not Exempt Property in any fiscal year of the Association, applicable to that fiscal year only and payable over not more than three (3) consecutive fiscal years, for any purpose of the Association, including but not limited to defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement to the Community Facilities, and fixtures and personal property related to them. A Special Community Assessment provided for in this Subsection (a) must be approved by (i) more than two-thirds ( $\frac{2}{3}$ ) of the votes of the Class A Members duly called for such purpose at which are present (in person or by proxy) Class A Members who are Owners of at least sixty percent (60%) of the Lots and (ii) during the Development Period, the Developer. If the said sixty percent (60%) of the Class A Members does not attend a meeting of the Members duly called for such purpose, the meeting may be adjourned for not less than ten (10) days nor more than sixty (60) days to a meeting at which, to be effective, there must be present (in person or by proxy) Class A Members who are Owners of at least thirty percent (30%) of the Lots.

(b) In addition to the Special Community Assessment provided for in Subsection (a) above, the Board shall have the power to levy a periodic Special Community Assessment against the Lots if the purpose in so doing is found by such Board to be in the best interests of the Association and the proceeds of such assessment are used primarily for the maintenance and upkeep, including capital expenditures, of the Community Facilities; provided that any Special Community Assessment levied pursuant to this Subsection (b) may be rescinded by the majority vote of all Members attending a special meeting of the Association convened in accordance with the provisions of this Declaration within sixty (60) days of receipt of the Board's notice of such Special Community Assessment.

(c) Special Community Assessments imposed on Lots owned by the Developer or Participating Builders pursuant to either Subsections (a) or (b) above shall be subject to reduction or elimination to the same extent and on the same terms as is provided in subsection 4.02(b) above and Section 4.11 below.

**4.07. Special Cluster Assessments.**

(a) In addition to the Annual Cluster Assessment, the Association has the power to and may levy a Special Cluster Assessment on all or some of the Lots which are not Exempt Property within a particular Cluster, if any, in any fiscal year of the Association, applicable to that fiscal year only and payable over not more than three (3) consecutive fiscal years, for any purpose related to that Cluster, including but not limited to defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement to the Cluster Community Facilities located in such Cluster, and fixtures and personal property related to them.

(b) A Special Cluster Assessment for a particular Cluster must be approved by (i) more than two-thirds ( $\frac{2}{3}$ ) of the votes of the Class A Members who are Owners of Lots in such Cluster and who are voting in person or by proxy at a meeting of such Owners duly called for such purpose at which are present (in person or by proxy) Class A Members who are Owners of at least sixty percent (60%) of the Lots in such Cluster; and (ii) during the Development Period, the Developer.

(c) Any Special Cluster Assessment imposed on Lots owned by the Developer shall be subject to reduction or elimination to the same extent and on the same terms as provided in Section 4.02(b) above and Section 4.11 below.

**4.08. Date of Commencement of Community Assessments; Installments. -**

(a) Annual Community Assessments for the first fiscal year of the Association shall commence on the day of the first conveyance of a Lot to an Owner who is not the Developer or a Participating Builder.

(b) Although Assessments shall be determined and be due on an annual basis, the Association, by rule or regulation, may permit Annual Community Assessments to be paid in periodic installments, and the Association, at any meeting at which it approves a Special Community Assessment pursuant to Section 4.06(a) above, may permit the Special Community Assessment to be paid in one lump sum or in periodic installments.

**4.09. Date of Commencement of Cluster Assessments; Installments.**

(a) Annual Cluster Assessments for the first fiscal year of the Association shall commence on the day of the first conveyance of a Lot within a Cluster to an Owner who is

not the Developer or a Participating Builder.

(b) Although Assessments shall be determined and be due on an annual basis, the Association, by rule or regulation, may permit Annual Cluster Assessments to be paid in periodic installments. Special Cluster Assessments approved pursuant to Subsection 4.07(b) shall be due and payable as determined by the Persons voting at the meeting at which such Special Cluster Assessment is approved.

**4.10. Notice and Due Dates.** Written notice specifying the amount of each Assessment and, if provided pursuant to the foregoing Sections, the number and amounts of the installments by which each Assessment is to be paid, shall be given by the Board of Directors at least once yearly to the Owner of each Lot subject to Assessments. Each Assessment shall be due on the later of (a) the due date established by the Board of Directors or, as applicable, the Association and specified in the notice, or (b) if the notice is mailed, on the tenth day following the date of mailing. If the Assessment may be paid in installments, the notice shall so indicate. Failure of an Owner to receive any such written notice shall not excuse, relieve or release such Owner from his obligation to pay each such Assessment.

**4.11. Covenant to Pay Assessments.**

(a) Each Owner (including but not limited to a mortgagee or beneficiary under a deed of trust who has become an Owner by foreclosure or conveyance in lieu of foreclosure) other than the Developer and Participating Builders, by his acceptance of a deed for a Lot, whether or not it is so expressed in that deed, shall be deemed to covenant and agree to pay to the Association all of the following:

(i) All Assessments levied on that Lot in accordance with this Declaration; (ii) interest on those Assessments under Section 4.12 below; and (iii) all costs of the association incurred with respect to collection of those Assessments under Section 4.13 below.

(b) The Developer, both for itself and for its successors and assigns, and, by acceptance of each deed of a Lot (whether or not it is so expressed in such deed), each Participating Builder, shall be deemed to covenant and agree to pay to the Association all of the following:

(i) No Assessment on undeveloped parcels of ground or on undeveloped Lots so long as Developer owns such land or Lots;

(ii) If the Developer shall develop subdivided Lots, then Developer shall pay no Assessments thereon or with respect thereto to the extent the Developer agrees in writing with the Association to pay all budget deficits, if any, of the Association, provided that such limitation on the payment of Assessments shall cease and Developer shall pay an amount equal to 25% of such Assessments otherwise imposed on Lots owned by Class A Members with

regard to Lots owned by the Developer from and after (1) the failure of the Developer to pay such budget deficits or (2) the expiration of any time period for such limitation set forth in Developer's written agreement to pay the Association's budget deficits; and

(iii) Following conveyance of a Lot by Developer to a Participating Builder, such Participating Builder shall pay with respect to such Lot an amount equal to 25% of such Assessments otherwise imposed upon Lots owned by Class A Members until such lot(s) is/are sold to an Owner other than a Participating Builder.

(c) Lot Assessments referred to in subsections 4.11(b)(i), (ii) and (iii) shall be payable to the Association on the same periodic or lump sum basis as is applicable to payments of Assessments by other Class A Members. If a Participating Builder shall acquire a Lot after the first day of the fiscal year of the Association or shall own a Lot for less than the fiscal year of the Association, then such Participating Builder shall only pay its pro rata share of such Assessment during such fiscal year.

(d) At the time developed Lots are sold to Owners by a Participating Builder, a \$200.00 contribution to the general fund of the Association shall be made by the Participating Builder.

(e) The aforesaid covenants shall be independent of any and all of the covenants and obligations of the Association.

#### **4.12. Delinquent Assessments.**

(a) If an Owner fails to pay any part of any Assessment within thirty (30) days after the due date as established pursuant to Section 4.10, the unpaid amount shall be deemed "Delinquent," and the Owner shall be deemed in breach of this Declaration).

(b) Any delinquent amount shall automatically bear interest at the maximum legal rate of permitted from time to time in the State of Maryland (or such lesser sum as VA and/or FHA may specify if any Lot subject to this Declaration is then encumbered by a deed of trust or mortgage which is guaranteed by VA or insured by FHA), or such lesser amount as established by resolution of the Board of Directors.

**4.13. Enforcement Powers of Association.** As to any Owner who is in breach of Section 4.11, the Association shall have the power and authority to take any or all of the following actions, at its sole option and without the necessity of any election of remedies; and by acceptance of the deed to his Lot, each Owner specifically agrees that:

(a) In addition to any other remedies it may have, the Association may accelerate and declare immediately due the entire amount of any annual Assessment which the said Owner had been paying in installments; and

(b) In addition to any other remedies it may have, the Association may sue the Owner for a personal judgment for the Delinquent amount, plus interest under Section 4.12(b) and its costs of collection, including but not limited to court costs and reasonable attorneys' fees; and

(c) In addition to any other remedies it may have, the Association may enforce, under a power of private sale or otherwise, and foreclose the lien imposed by Section 4.15(a) on any Lot for which any Assessment is Delinquent. The association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. In any foreclosure sale or proceeding, the Association shall be entitled to recover the Delinquent amount, plus interest under Section 4.12(b), and its costs of collection, including but not limited to court costs, costs of any public or private sale, and reasonable attorneys' fees; and

(d) For so long as any Class A Member other than a Participating Builder or the Developer remains in breach of Section 4.11, the Association may suspend any or all of the following:

(i) Such Owner's right and easement of enjoyment in and to any or all Community Facilities; and/or

(ii) The right of any Resident of the Lot to use and enjoy any or all Community Facilities; and/or

(iii) The license and privilege of enjoyment of any guest or other Person claiming that license or privilege under or through such Owner or Resident, to use and enjoy any or all Community Facilities; and/or

(iv) The Owner's right to vote on any and all Association issues, as provided further below; and/or

(v) The Owner's right to act as a member of the Board of Directors if such Owner is a member of the Board of Directors.

(e) Notwithstanding the foregoing, direct access to such Owner's Lot over any road within the Property and which is part of the Community Facilities shall not be denied to such Owner.

**4.14. Suspension of Voting Rights.** Under Section 6.02 of the Articles of Incorporation, for so long as any Assessment with respect to any Lot owned by a Class A Member other than a Participating Builder or Developer is Delinquent, in whole or in part, as determined by the Board of Directors in accordance with this Declaration and its rules and regulations, the Owner of that Lot shall not be entitled to cast the vote or votes of that Lot.

**4.15. Lien of Assessments.**

(a) All Assessments, together with interest under Section 4.12 and costs under Section 4.13, shall be a charge on the Lot from the date such Assessments are levied (notwithstanding that an Owner may be permitted to pay an Assessment in installments) and once perfected, as provided in the Maryland Contract lien Act (and any successor legislation) the Association shall have a lien thereon. A lien for Assessments shall not be affected by any sale, transfer or other disposition of a Lot, except that a sale or transfer pursuant to a foreclosure, or any proceeding in lien thereof, of a deed of trust or mortgage on a Lot recorded in the land records of Charles County, Maryland on or before the date the Assessment becomes Delinquent, shall extinguish a lien for Delinquent Assessments which became payable prior to such sale or transfer. Any such sale or transfer pursuant to a foreclosure shall not relieve the purchaser or transferee of a Lot from liability for, nor the Lot from the lien of, any Assessments made after such sale or transfer.

(b) Each Assessment, together with interest under Section 4.12 and costs under Section 4.13, shall also be the personal obligation of the Person who was the Owner of the affected Lot at the time when the Assessment came due. The personal obligation to pay Assessments, as opposed to the lien obligation, shall not pass to the Owner's successors in title unless expressly assumed by them. Such personal obligation of the Owner shall survive the extinguishment of the lien of any such Delinquent Assessments to the extent such extinguishment results from the payment of the Delinquent Assessments plus interest and costs if due pursuant to this Declaration. The Board of Directors may reallocate and assess, as an expense of the Association, any such Delinquent Assessments the lien of which was so extinguished.

(c) No Owner may waive or otherwise escape liability for any Assessment by abandonment or sale of his Lot, or non-use of the Community Facilities or any other reason.

**4.16. Subordination.** The lien of the Assessments provided for in this Declaration and any costs or interest that might be levied by the Association in connection with Delinquent Assessments shall be subordinate to the lien of any first mortgage or first deed of trust which secures a First Mortgagee.

**4.17. Certificate of Payment.** The Association shall, upon an Owner's request and for a reasonable charge, furnish a certificate, signed by an officer of the Association, setting forth whether the Assessments on a specified Lot have been paid and, if appropriate, whether periodic installments of the Assessments on a specified Lot are current. Any such certificate, if properly executed, shall be binding upon the Association as of the date of its issuance.

**4.18. Reserves.**

(a) From its revenues from Annual Assessments, the Association shall



establish and maintain a reserve fund for replacement of the Community Facilities, by the allowing and payment periodically to the reserve fund of an amount to be determined from time to time by the board of Directors. Separate reserve accounts may be established in the name of and for the benefit of each Cluster, if any, regarding that particular Cluster's Cluster Community Facilities. The reserve fund established for Community Facilities, exclusive of Cluster Community Facilities, shall constitute a common expense of the Association. The reserve fund established for a particular Cluster as provided above shall constitute a common expense of the Association allocable, however, exclusively to such Cluster. All reserve funds shall be deposited in accounts which are insured by an agency of the United States Government or, in the discretion of the Board of Directors, invested in obligations of, or obligations which are fully guaranteed as a principal by, the United States Government.

(b) The proportional interest of any Owner in any reserve shall be an appurtenance of his Lot and shall not be separately withdraw, assigned, or transferred or otherwise separated from the Lot, but shall be automatically transferred with the Lot.

#### Article V - Damage or Destruction of Structures and Insurance

##### 5.01. Required Insurance.

(a) The Association shall procure and maintain the following insurance coverages, to the extent obtainable and subject to the provisions of Section 5.02 below:

(i) Coverage of all Community Facilities and other Structures located on land owned by the Association, against loss or damage by fire, lightning and such other perils as are included within the terms "extended coverage" and "all risk" coverage, including but not limited to vandalism and malicious mischief, debris removal and windstorm and water-damage. The named insurers shall be the Association and, as to any Property of the Association which has been mortgaged, the mortgagee of that Property, as their interests may appear. During the Development Period, the Developer, as its interests may appear, shall be an additional named insured. The coverage shall be in an amount not less than one hundred percent (100%) of the current replacement costs of the insured Structures without deduction for depreciation, but exclusive of the costs of land excavation, footings and foundations, and the policy or policies shall include language calling for automatic increases in that coverage in response to general inflation as measured by an appropriate index; and

(ii) Comprehensive or commercial general liability coverage insuring the Association and, during the Development Period, the Developer against liability for bodily injury, disease, illness or death of Persons and for injury to or destruction of property occurring upon or arising from the authorized or unauthorized use of any Community Facility or other property owned or controlled by the Association. Such insurance coverage shall also include protection against legal liability arising out of lawsuits related to employment contracts of the

Association. The coverage shall be in whatever amounts and subject to whatever deductibles and exclusions the Board of Directors considers prudent; provided, however, that (a) such coverage shall be for at least \$1,000,000 for bodily injury, including deaths of Persons and property damage arising out of a single occurrence and (b) the deductible(s) satisfy the requirements, if any, of the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, so long as each of them is an Owner or First Mortgagee of any Lot, or of the Veterans Administration for so long as it is a Guarantor, or of the Federal Housing Administration, for so long as it is an Insurer; and

(iii) All other bonds and insurance coverages required of the Association by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, for so long as each of them is an Owner or First Mortgagee of any Lot, or by the Veterans Administration for so long as it is a Guarantor, or by the Federal Housing Administration, for so long as it is an Insurer.

(b) The Association may also procure and maintain whatever other insurance coverage the Board of Directors considers necessary or appropriate, including but not limited to directors' and officers' liability insurance.

(c) Insurance premiums for the coverages required and authorized by this Section shall be paid from the Association's revenues from Assessments.

(d) All insurance policies of the Association must contain language requiring the insurer to give the Association at least thirty (30) days' prior written notice of any expiration, cancellation or non-renewal, or change in premiums or coverage.

(e) During the Development Period, any of the insurance required and authorized by this Section may be obtained and maintained by the Association in connection with insurance Developer obtains and maintains with respect to the Property.

**5.02. Annual Review.** The Board of Directors shall annually conduct a review of the terms and adequacy of coverage of all insurance policies held by the Association and shall adjust the Association's insurance coverage as the Board of Directors deems advisable, in accordance with this Declaration.

**5.03. Uninsured Loss or Insufficient Proceeds.** If a Structure owned by the Association suffers damage or destruction from any cause which is not insured against or for which the insurance proceeds are not sufficient to pay all costs of repair or reconstruction, then repair or reconstruction thereof shall constitute a capital improvement for which a Special Community Assessment or Special Cluster Assessment, as applicable, may be made.

**5.04. Total or Partial Condemnation, Loss or Destruction.**

(a) The Association shall represent all of the Class A Members in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Community Facilities or any part thereof. Each Class A Member hereby expressly appoints the Association, as attorney-in-fact, coupled with an interest, for the limited purpose of performing in accordance with this Section.

(b) In the event of a taking or acquisition of part (but less than substantially all) of the Community Facilities by a condemning authority as a result of eminent domain proceedings for threat thereof ("Condemnation"), the award or proceeds of settlement ("Condemnation Proceeds") shall be payable to the Association, and if such Community Facilities have been mortgaged, then as the interests of the Association's mortgagee(s) may appear; and the Association, subject to the rights, if any, of the Association's mortgagee(s) and the rights, if any, of the First Mortgagees, shall apply the Condemnation Proceeds toward the repair, restoration or replacement, if practicable, of the Community Facilities so taken or acquired, or as the Board of Directors shall deem in the best interests of the Association; and if the amount of Condemnation Proceeds is insufficient to defray completely the cost of repair, restoration or replacement of the Community Facilities so taken, then the Association shall use all or part of the funds constituting the applicable reserve, described in Section 4.18 above, and, if necessary, impose a Special Assessment upon the Members, or, with respect to Cluster Community Facilities, upon the Members within the Cluster where the affected Cluster Community Facilities are located, as applicable, all as the Association shall deem necessary, to pay for the repair, restoration or replacement of such affected Community Facilities or Cluster Community Facilities.

(c) In the event of a total or substantially total Condemnation of the Community Facilities, the Association, subject to the rights, if any, of the Association's mortgagee(s) and the rights, if any, of First Mortgagees, shall determine the feasibility of applying the Condemnation Proceeds toward the repair, restoration or replacement, if practicable, of the Community Facilities so condemned; and if it is determined to be feasible to apply the Condemnation Proceeds toward the repair, restoration or replacement of the Community Facilities, then the Association shall do so subject to the relative rights, if any, of its mortgagee(s) and the First Mortgagees, and apply so much of the Association's reserves and/or impose a Special Assessment upon the Members as is necessary for the purpose of defraying completely the cost of repairs, restoring or replacing the Community Facilities; but if it is determined that the repair, restoration or replacement of the Community Facilities would not be feasible, then the Board of Directors shall call a special meeting of all Members for the purpose of deciding an appropriate course of action with respect to the future existence, operation and control of the Property, including but not limited to whether to terminate the Association and this Declaration. Any decision by the Members to terminate the Association and this Declaration shall be made in accordance with Article X hereof and Article 8.04 of the Articles of Incorporation.

(d) In the event of loss or destruction of part (but less than substantially all) of the Community Facilities, the insurance proceeds ("Insurance Proceeds"), if any, attributable to such loss or destruction shall be payable to the Association, and if such Community Facilities have been mortgaged, then as the interests of the Association's mortgagee(s) may appear, and the Association, subject to the rights, if any, of the Association's mortgagee(s) and the rights, if any, of First Mortgagees, shall apply the Insurance Proceeds toward the repair, restoration or replacement, if practicable, of the Community Facilities so lost or destroyed, or as the Board of Directors shall deem in the best interests of the Association; and if the amount of Insurance Proceeds is insufficient to defray completely the costs of repair, restoration or replacement of the partially lost or destroyed Community Facilities, then the Association shall use all or part of the funds constituting the applicable reserve described in Section 4.18 above, and, if necessary, impose a Special Assessment upon the Members, or, with respect to Cluster Community Facilities, upon the Members within the Cluster where the affected Cluster Community Facilities are located, as applicable, all as the Association shall deem necessary, to pay for the repair, restoration or replacement of such affected Community Facilities or Cluster Community Facilities.

(e) In the event of a total or substantially total loss or destruction of the Community Facilities, the Association, subject to the rights, if any, of the Association's mortgagee(s) and the rights, if any, of First Mortgagees, shall determine the feasibility of applying the Insurance Proceeds toward the repair, restoration or replacement, if practicable, of the Community Facilities so lost or destroyed; and if it is determined to be feasible to apply the Insurance Proceeds toward the repair, restoration or replacement of the Community Facilities, then the Association shall do so subject to the relative rights, if any, of its mortgagee(s) and the First Mortgagees, and apply so much of the Association's reserves and/or impose a Special Assessment upon the Members as is necessary for the purpose of defraying completely the cost of repairing, restoring or replacing the Community Facilities; but if it is determined that the repair, restoration or replacement of the Community Facilities would not be feasible, then the Board of Directors shall call a special meeting of all Members for the purpose of deciding an appropriate course of action with respect to the future existence, operation and control of the Property, including but not limited to whether to terminate the Association and this Declaration. Any decision by the Members to terminate the Association and this Declaration shall be made in accordance with Article X below and Article 8.04 of the Articles of Incorporation.

(f) Any distribution to Owners and/or to the Association's mortgagees and/or to First Mortgagees, made as a result of the termination of the Association and this Declaration, shall be made in proportion to the total number of Lots subject to this Declaration at the time of Condemnation or loss or destruction.

**5.05. No Priority or Partition.** No Member shall have any priority over any other Member as to any Condemnation Proceeds or Insurance Proceeds or any right to a partition with respect thereto, except that, during the Development Period, the Class B Member shall be entitled to be reimbursed from Condemnation Proceeds and/or Insurance Proceeds for their

actual losses as a result of partial or total Condemnation, loss or destruction.

#### Article VI - Design Review Board

**6.01. Composition and Appointment.** A Design Review Board (or DRB) shall be selected in accordance with the Bylaws. Subject to this Declaration and the Bylaws, the qualifications of the members of the DRB shall be determined by the Board of Directors. The number and method of selection of the DRB, and other provisions governing the DRB, shall be provided in the Bylaws.

**6.02. Powers and Duties.**

(a) The DRB shall serve as an architectural review board and regulate the external design, appearance, use, and location of Lots and Structures so as to enforce the architectural provisions of this Declaration, the Design Code, and supplemental architectural guidelines, if any, promulgated by the DRB, preserve and enhance values, and maintain a harmonious relationship among Structures. Subject to Sections 6.02(c) and 6.09 below, the DRB shall have exclusive authority over modifications, additions or alterations made on or to (i) existing Structures located on Exempt Property, (ii) the Community Facilities following termination of the ASC Exclusive Authority and (iii) buildings, Structures, Lots, or other Property on which the original construction has been completed and has been conveyed to an Owner other than a Participating Builder or the Developer (collectively, "DRB Exclusive Authority"). The DRB shall have no authority or jurisdiction over and may not regulate, and the ASC shall have exclusive authority and jurisdiction over and may regulate; (i) Land Development Activity; (ii) the external design, appearance, use and location of well lots and septic lots, (iii) initial design, appearance, use, location, construction, development or building of or on Lots, Structures, and Exempt Property and (iv) the design modifications, additions, and alterations of Community Facilities unless and until the Developer shall relinquish or dispose of all rights to develop Berry Valley or until it shall transfer to the DRB its authority by written instrument (collectively, "ASC Exclusive Authority").

(b) The DRB shall (i) administer the Design Code regarding Structures and Lots which are within the DRB Exclusive Authority, and (ii) recommend supplemental architectural standards for Structures and Lots which are within the DRB Exclusive Authority, provided that such standards are consistent with the Design Code, for adoption by the Board of Directors.

(c) Any decision or determination of the DRB may be appealed by the affected Member or property owner to the Board of Directors; provided that the Board of Directors may act upon an appeal only upon (i) written petition of the affected Member(s) or property owner(s) or (ii) the motion of a majority of the Board of Directors.

**6.03. Submission of Plans to the DRB.**

(a) No Structure shall be erected, placed, moved onto or permitted on any Lot, Community Facility or Exempt Property within the DRB Exclusive Authority, nor shall any existing Structure on any Lot, Community Facility or Exempt Property within the DRB Exclusive Authority be removed, modified or altered in any way which materially changes its exterior appearance or structural integrity, nor shall any new uses be commenced on any such Lot, Community Facility or Exempt Property, nor shall any portion of any such Lot, Community Facility or Exempt Property within the DRB Exclusive Authority be cleared or graded, until plans and specifications for the proposed action have been approved in writing by the DRB.

(b) Unless otherwise approved by the DRB, all plans and specifications required to be submitted to the DRB must be prepared by an architect duly licensed under the then existing registration laws of the State of Maryland. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the DRB, including, without limitation, the nature and scope of landscaping proposed following construction of any structure, to determine whether or not the proposed use meets the Design Code or additional standards set forth herein or adopted by the Board of Directors; provided, however, that neither the Association, the Board of Directors, the DRB nor any members of the Board of Directors on the DRB shall be liable for damages to anyone who has submitted plans for approval, or to any Owner or Resident, by reason of mistake in judgment or nonfeasance of itself, its agents or employees, arising out of or in connection with the approval or disapproval of any such plans. Likewise, anyone so submitting plans to the DRB for approval, by submitting such plans, and any Person when he becomes an Owner or Resident, agrees that he or it will not bring any action or suit to recover any such damages against the Association, the Board of Directors, the DRB or any member of the Board of Directors of the DRB. However, the DRB shall not unreasonably withhold approval of any plans submitted pursuant thereto. Failure to meet the criteria or standards mentioned herein or developed by the DRB from time to time shall be grounds for the DRB's reasonable disapproval of any such plans. All construction work shall, on approval of plans by the DRB, be commenced within one (1) year from the date such approval is granted and must be carried out with dispatch, which in no event may exceed a period of one (1) year following such commencement, unless otherwise specified by the DRB in its approval.

(c) To the extent feasible, the DRB shall rely on interpretations of the Design Code by the ASC in reviewing and administering the Design Code.

**6.04. Approval of Plans and Specifications.**

(a) Any approval or disapproval by the DRB of a proposed action shall be in writing. When it denies any application, the DRB shall specify the reasons for the denial. The DRB may approve an application subject to whatever conditions and qualifications it or the Board of Directors deems appropriate to enforce the architectural provisions of this Declaration.

(b) All applications for modifications and changes to Structures on a Lot or Community Facility within a Cluster, if any, which are not in accordance with the original Structure, or which do not meet the standards adopted by the DRB, shall be acted upon with the advice of the Cluster Committee, if any, for the Cluster in which the Lot is located; provided that if there shall be no Cluster Committee or such committee shall fail to act timely in other determination of the DRB, then the DRB may act without the advice of the Cluster Committee.

(c) Upon arrival by the DRB of any plans and specifications submitted hereunder, a copy of such plans and specifications, as approved, shall be deposited for permanent record with the DRB and/or the Secretary and written notification evidencing approval of such plans and specifications shall be sent to the applicant submitting the same. Such approval shall lapse after a period of one (1) year in the event construction or alteration or other similar work has not commenced, and thereafter the approval of the DRB, and compliance with the provisions of this Article, shall again be required prior to commencement of such work. In any case where the DRB has disapproved any plans and specifications submitted hereunder, or has approved the same only as modified or upon specified conditions, such disapproval or qualified approval shall be communicated to the applicant by a written statement of the grounds upon which such action was based. In any such case, the DRB may, but shall not be obligated to, if requested, make reasonable efforts to assist and advise the applicant in preparation and submission of an acceptable proposal.

(d) Upon completion of the construction or alteration of any Structure in accordance with plans and specifications approved by the DRB, the DRB shall, upon request of the applicant, issue a Certificate of Compliance in form suitable for recordation, identifying such Structure and the Lot, or description of the Community Facility or Exempt Property, as the case may be, on which such Structure is located, and stating that the plans and specifications, the location of such Structure and the use or uses to be conducted thereon have been approved and that such Structure complies therewith. Preparation and recording of such Certificate of Compliance shall be at the expense of such Owner or Resident. Any Certificate of Compliance issued in accordance with the provisions of this Section shall be prima facie evidence of the facts therein stated, and as to any purchaser or encumbrance in good faith and for value, or as to any title insurer, such Certificate of Compliance shall be conclusive evidence that all Structures on the affected Property and the use or uses described therein comply with all the requirements of this Article, and with all other requirements of this Declaration, as to which the DRB exercised any discretionary or interpretive powers.

**6.05. Failure of the DRB to Act.** If the DRB fails to act upon any written request submitted to it within one hundred twenty (120) days after submission, the request shall be deemed approved as submitted, and no further action by the DRB shall be required. For the purpose of this Section, action by the DRB includes extending the time for final decision.

**6.06. Rules, Regulations and Policy Statements.**

(a) The DRB may adopt, from time to time, subject to the approval of the Board of Directors, rules and regulations pertaining to its authorized duties and activities. It may from time to time issue statements of policy with respect to architectural standards and other matters on which it is authorized to act. Any such statements of policy shall be consistent with the Design Code. The DRB shall be bound by the rules of procedure set forth in the Bylaws of the Association, as supplemented by such rules as are adopted by the DRB and approved by the Board of Directors.

(b) If any Structure shall be commenced, altered, removed, modified, erected, placed, moved onto, or maintained upon any Lot or Exempt Property as applicable, or any clearing, grading or use commenced on any Lot or Exempt Property, as applicable, in violation of Section 6.03 of this Article, then, upon written notice from the DRB, any such Structure so commenced, altered, removed, modified, erected, placed, moved onto, or maintained upon any Lot or Exempt Property, as applicable, in violation hereby shall be removed or re-altered by the Owner or Resident of the applicable Lot or owner of such Exempt Property at its expense, and any such clearing, grading, development or use shall be terminated any previous conditions restored so as to extinguish such violation.

**6.07. Expenses of the DRB.** The Association shall pay all ordinary and necessary expenses of the DRB. However, no member of the DRB shall be paid any salary or receive any other form of compensation from the Association (except reimbursement for reasonable and necessary expenses incurred in connection with his service on the DRB), unless approved by (i) the Board of Directors; and (ii) more than two-thirds (2/3) of the votes cast by the Class A Members who are voting in person or by proxy at a meeting of the Members duly called for such purpose at which a quorum is present; and (iii) during the Development Period, the Developer.

**6.08. Right of Entry.** Upon prior notice except in emergency circumstances, the Association and/or the DRB, through their authorized officers, employees and agents, shall have the right to enter upon any Lot or Exempt Property, as the case may be, at all reasonable times for the purpose of ascertaining whether the Lot or Exempt Property or any Structure on it is in compliance with the provisions of this Article, Article VII, and the rules and regulations, if any, adopted by the DRB, without the Association, the DRB or the officer, employee or agent being deemed to have committed a trespass or other wrongful act.

**6.09. Land Development Activity.** Notwithstanding any other provision of this Declaration, no Land Development Activity shall require the approval of or be subject to review by the DRB.

**6.10. No Waiver.** No failure on the part of the DRB to enforce a rule or policy shall be considered a future waiver of the enforceability of such rule or policy. No ruling on the part of the DRB shall be considered precedent in future matters under the control of the DRB.



6.11. **Enforcement.** The provisions of this Article VI shall be enforceable in accordance with Section 13.03 below.

6.12. **ASC.** The Developer has organized the Architectural Standards Committee or ASC for the purposes of, and which shall have exclusive authority over, interpreting, enforcing and modifying the Design Code as it relates to (i) the initial design, construction, development, use, location and building on the Property and (9) the Community Facilities unless and until the Developer shall relinquish or dispose of all rights to develop property at Berry Valley or until it shall transfer to the DRB its authority by written instrument. The ASC shall have the exclusive right to amend, modify or supplement the Design Code as it affects Structures and Lots within the ASC Exclusive Authority.

**Article VII - General Restrictions on the Use  
of Lots and Improvements to Lots**

7.01. **Zoning Regulations.** No Lot shall be used for any purpose not permitted by Charles County zoning ordinances or the applicable laws or regulations of any governmental authority having jurisdiction over such Lot or Exempt Property. This restriction shall not apply to any use for which a special exception or other special permission under the Charles County zoning ordinances or other governing regulations is finally granted, provided the use is also approved in writing by the DRB. All Dwelling Units shall be used as residences, except that the conduct of professional services permitted by Charles County zoning ordinances and which results in no external indications (i.e., signs, additional vehicles, noise, etc.) of such services may be permitted on a Lot with the written approval of the DRB. The DRB's right to limit or restrict the use of a particular Lot in addition to the restrictions imposed by zoning ordinances, laws, and regulations is hereby expressly reserved under the provisions of this Declaration. This Section is subject to the provisions of Section 7.18 below.

7.02. **No Use Contrary to Law and No Nuisances.** No noxious or offensive trade, service or activity may be conducted on any portion of the Property nor shall anything be done on the Property which may be or become a continuing annoyance, hazard or nuisance to Owners or Residents. No use of any portion of the Property or any Structure shall be made, nor shall any materials or products be manufactured, processed or stored on, or discharged from, any portion of the Property or in a Structure, in violation of federal, state or local laws or regulations or resulting in an unreasonable fire hazard to adjoining Lots or Structures. No Structures shown on a subdivision plat recorded by the Developer or subsequently approved by the DRB shall be used for a purpose other than that for which the Structure was originally designed, without the approval of the DRB. No privy or other outside toilet facility shall be constructed or maintained on any Lot except temporary facilities used in connection with construction. This Section is subject to the provisions of Section 7.18 below.

7.03. **Water Course.** No material or refuse shall be placed or stored in or near any water course or body of water, including without limitation, streams and creeks, except as is

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required during the normal course of construction on the Lot or parcel. Clean fill may be replaced near a water course or body of water, provided that the fill is properly bailed to prevent siltation. Anti-siltation techniques shall be utilized on all construction sites. This Section is subject to the provisions of Section 7.18 below.

**7.04. Structures.** The architectural character of all alterations of or additions or improvements to Structures (other than interior alterations not affecting external appearance) when visually related to each other and the surrounding natural environment, must be found by the DRB to be harmonious in terms of type, size, scale, form, color, and material. No Structure shall be painted, stuccoed or surfaced with any material unless approved in writing by the DRB in accordance with the Design Code and other objective, performance-oriented guidelines established by the DRB. Screens or parapets shall be used to organize and aesthetically shield mechanical equipment from public view. This Section is subject to the provisions of Section 7.18 below.

**7.05. Screens and Fences.** All fences, walls and screens shall be constructed with appropriate landscape treatment and coloring to blend harmoniously with the surrounding environment, including topography, architecture and planting. The location, height, material, treatment and color of fences, walls and screens shall be subject to the prior written approval by the DRB which will consider, among other things, the uses intended and the impact on the neighborhood, particularly adjacent Lots. This Section is subject to the provisions of Section 7.18 below.

**7.06. Outside Storage or Operations.** No outside storage of lumber (other than reasonable quantities of firewood for consumption on such Lot) metals or bulk materials of any kind, except building materials temporarily stored during the course of construction of an approved Structure, shall be permitted, and no refuse or trash shall be kept, stored or allowed to accumulate, on any Lot or Exempt Property, as the case may be, unless such item is visually screened in a manner approved in writing by the DRB. No outside storage and operations shall extend above the top of any such screening. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, refuse containers may be placed in the open, on any day that a pick-up is to be made (or after dusk on the day before such date) at such place on the Lot so as to provide access to the persons making the pick-up. At all other times, such containers shall be stored so as to be visually screened from all streets and adjacent and surrounding Lots. The DRB may formulate and adopt regulations as to the size, shape, color and type container permitted and the manner of storage of same on any Lot. This Section is subject to the provisions of Section 7.18 below.

**7.07. Signs and Street Furniture.** The locations, color, nature, size, design and construction of all exterior signs, lights, posts and street furniture shall be previously approved in writing by the DRB, and must be in keeping with the character of the Property and in accord with the Design Code. This Section is subject to the provisions of Section 7.18 below.

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**7.08. Commercial Vehicles.** No commercial truck, commercial bus or other commercial vehicle of any kind shall be permitted to be kept or parked overnight upon any portion of the Property (except Exempt Property) without the prior written approval of the DRB. Without limiting what may constitute a commercial vehicle for the purposes of this Section 7.08, a truck, bus or other vehicle shall be deemed to be "commercial" within this prohibition if (i) the vehicle has on its exterior any signs or advertising for services or retail or wholesale products, (ii) the vehicle has more than four (4) wheels, (iii) the vehicle has on its exterior or devices or racks for the purpose of securing tools of the trade, raw materials or work products, excluding luggage or bicycle racks designed for consumer use, or (iv) a vehicle with commercial tags or similar designation issued by the Department of Motor Vehicles or other appropriate agency of the State of Maryland. This Section is subject to the provisions of Section 7.18 below.

**7.09. Vehicles.** No boat, trailer (including but not limited to movable manufactured homes and house trailers) tent, motor home, or recreational vehicle (unless such recreational vehicle is in daily use for transportation for other than commercial purposes) shall be stored or maintained upon any Lot, except within a garage, or remain parked in a location visible from any roadway or surrounding Lot for a period exceeding two (2) days in any period of consecutive seven (7) days without the prior written approval of the DRB. No inoperable, unlicensed or unregistered vehicle shall be installed, stored, maintained or parked upon (i) any Lot in such manner as to be visible from any surrounding Lot or road or (ii) any portion of the Community Facilities, except for emergency purposes and then only temporarily until such vehicles may be made operable on an expedited basis. This Section is subject to the provisions of Section 7.18 below.

**7.10. Animals.** No livestock, poultry or other animals shall be kept on any Lot or for breeding purposes, and in no event shall any stable, barn, coop or other shelter for animals or for the storage of materials be placed or maintained upon any Lot, except as previously approved in writing by the DRB. Dogs, cats and other household pets may be kept on the Property provided they are not raised or bred for any commercial purposes. No dog shall be allowed on the Property except while on a leash unless such dog is confined to the Lot of such dog owner. This Section is subject to the provisions of Section 7.18 below.

**7.11. Air and Water Pollution.** No use of any Lot or Exempt Property will be permitted which emits pollutants into the atmosphere, or discharges liquid or solid wastes or other harmful matter into any waterway or any road, street, walkway, or other surface in excess of environmental standards provided by federal, state, and county laws and regulations applicable to the Property. No waste or any substance or materials of any kind shall be discharged into any private or public sewer serving the Property in violation of any regulations of Charles County sanitary authorities or any private or other public body having jurisdiction. No chemical fertilizers, pesticides or herbicides other than those approved by the United States Environmental Protection Agency (or its successor) shall be used on any of the Property. No outside burning of woods, leaves, trash, garbage or household refuse shall be permitted. This Section is subject to the provisions of Section 7.18 below.

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7.12. **Landscaping.** On each Lot and Exempt Property, all land area not occupied by Structures, hard-surfacing, vehicular driveways or pedestrian paths shall be kept planted with grass, trees or shrubs or other ground covering or landscaping according to the Design Code and any additional standards set by the DRB. The standards will take into consideration the need for providing effective site development to:

- (a) Enhance the site and buildings; and
- (b) Screen undesirable areas or views, and
- (c) Establish acceptable relationships among building, parking and adjacent properties, and
- (d) Control drainage and erosion.

This Section is subject to the provisions of Section 7.18 below.

7.13. **Maintenance of Premises and Improvements.**

(a) Each Owner and Resident shall at all times keep his Lot or Exempt Property as applicable and all premises and appurtenances in a safe, clean, neat and sanitary condition. Appropriate maintenance shall include, but not be limited to, the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management. Each Owner, Resident, and each owner of Exempt Property, shall comply with all laws, ordinances and regulations pertaining to health, safety and pollution.

(b) Within any slope control area shown on the Property, no structure, planting or other material shall be placed or permitted to remain, nor shall any activity be undertaken, which may damage or interfere with established slope ratios, create erosion or sliding problems or change the direction of flow of drainage channels, or obstruct or retard the flow of water through drainage channels. The slope control areas of each Lot and all improvements on them shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

(c) Within the Easement Area of any Lot, no structure, planting or other material shall be placed or permitted to remain so as to interfere with easements for the installation, construction or maintenance of lighting, signage, utilities, mailboxes or other items permitted in such Easement Area.

(d) Each Owner of a Lot which is served by a private drive for vehicles is jointly and severally liable with other Owners of Lots served by the same private drive for

vehicles for the removal of snow from the private drive adjoining his driveway.

This Section is subject to the Provisions of Section 7.18 below.

**7.14. Enforcement of Maintenance.**

(a) The DRB and its agents and employees, during normal business hours, shall have the right to do any and all maintenance work necessary or appropriate in the opinion of the DRB to keep any Lot (or Exempt Property), as applicable) whether unimproved, improved or vacant, in neat, safe and good order. Before doing any such work, the DRB shall hand deliver or mail by register or certified mail, return receipt requested, written notice to the owner of the affected Property. Such notice will provide (i) a description of the work to be done and (ii) the date (no earlier than fourteen (14) days after the date of such written notice) on which such owner may have a hearing before the DRB, if requested by such owner in writing delivered to the DRB, at which the owner shall be given an opportunity to be heard and to be represented by counsel. If no hearing is so requested by such owner, then the DRB and its agents and employees may do all or a portion of the work described in the notice. If a hearing is held, the DRB will render a decision within seven (7) days of the hearing. The cost and expense of the work done by the DRB shall be paid by the owner to the DRB upon written demand and, if not paid within fifteen (15) days of such demand, shall accrue interest at a rate of ten percent (10%) per annum until the date which the entire amount plus interest is paid.

(b) The DRB and its agents and employees shall have the right, upon the same notice and conditions as specified in Subsection (a) above, to trim or prune, at the expense of the owner of any portion of the Property as under Subsection (a) above, any hedge, tree or other planting that, by reason of its location on the Lot or Exempt Property, as applicable, or its height or the manner in which it is permitted to grow, is in the written opinion of the DRB detrimental to the adjoining Lots or unattractive in appearance.

This Section is subject to the provisions of Section 7.18 below.

**7.15. Maintenance During Construction.** During repair or restoration of a Structure upon a Lot or Exempt Property, as the case may be, it shall be the responsibility of each owner or Owner to ensure that work sites are kept free of unsightly accumulations of rubbish and scrap materials, and that construction materials, trailers, shacks and the like are kept in a neat and orderly manner. This Section is subject to the provisions of Section 7.18 below.

**7.16. Stormwater Facility.** As to any stormwater management facility located on the Property which is not maintained by Charles County or, in the opinion of the Board of Directors, is not adequately maintained by Charles County, the Association shall undertake grass mowing and the removal of debris and other material where such debris or material has impeded or threatens to impede the free flow of stormwater through said drainage facility. This Section is subject to the provisions of Section 7.18 below.

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7.17. Miscellaneous. Without the prior written approval of the DRB, which approval may contain such conditions as the DRB deems reasonable:

- (a) No water pipe, gas pipe, sewer pipe, drainage pipe or industrial process pipe, except hoses and movable piping used for irrigation purposes, may be installed or maintained on any Lot or Exempt Property above the surface of the ground; and
- (b) No previously approved Structure may be used for any purpose other than that for which it was originally designed; and
- (c) No Lot or Exempt Property may be split, divided or subdivided for sale, resale, gift, transfer or otherwise, unless by deed of correction in accordance with Charles County requirements; and
- (d) No facility, including but not limited to poles, wires and conduits, for transmission or receipt of electricity, telephone messages, television and the like may be placed and maintained above the surface of the ground on any Lot or Exempt Property, and no external or outside antennas of any kind, including without limitation satellite dishes or similar devices or equipment designed for the transmission or receipt of community signals, may be maintained; and
- (e) No Lot or Exempt Property may be used for any mining, boring, quarrying, drilling, or removal or any other exploitation of subsurface natural resources, any of which would tend to conflict with the surface development.
- (f) No Owner may lease his Lot or any Structure thereon, or any part of either, unless the lease is in writing and of a duration of no less than thirty (30) consecutive days, and expressly provides that (a) its terms shall be subject in all respects to the provisions of this Declaration and the Articles of Incorporation, Bylaws and regulations of the Association and (b) any failure by the lessee to comply with the terms of those documents shall be a default under the lease.
- (g) No clothesline or freestanding clothesline device may be installed, permanently or temporarily, upon any Lot, and no clothes, bedding, linens or similar personal effects may be displayed, permanently or temporarily, on the exterior of any Dwelling Unit.

This Section is subject to the provisions of Section 7.18 below.

7.18. Land Development Activity.

- (a) Notwithstanding anything in this Declaration to the contrary, the restrictions imposed by or promulgated pursuant to this Article VII or Article VI shall not be applicable to Land Development Activity.

(b) Without limiting the generality of the foregoing exclusion, the Developer, any Participating Builder and any Persons designated in a writing signed by the Developer and transmitted to the Secretary of the Association shall have all of the following rights in connection with Land Development Activity and/or construction and sale of Dwelling Units:

(i) The right to construct, install, operate and/or maintain on the Property one or more construction or management control offices in homes, field office trailers or other temporary facilities; and

(ii) The right to construct, install, operate and/or maintain one or more model dwelling units and sales offices on the Property, which models and offices may be owned or leased by the Developer or the designated Person.

7.19. Effect on First Mortgages and Deeds of Trust. No violation of this Article shall affect the validity of any first mortgage or deed of trust.

7.20. Amendment. This Article may not be amended without the affirmative approval of the Developer for so long as the Developer shall own any portion of the Property.

#### Article VIII - Covenant for Staged Development

8.01. Developer's Right to Expand. The Developer hereby expressly reserves the right, until the twentieth (20th) anniversary of the recordation of this Declaration, to annex additional lands to the Property one or more times without the consent of any Class A Member or the Association or any Person claiming any right or privilege under, by or through any Class A Member or the Association, by recording appropriate documents among the land records of Charles County. The right to expand is subject to the following:

(a) Any land to be added to the Property (the "Additional Land") must be included within the property described in Exhibit B, attached hereto and made a part hereof; and

(b) At such time as all of the Additional Land is annexed, if at all, the maximum number of Lots on the Property is not currently anticipated to exceed Nine Hundred Twenty-Seven (927); and

(c) Assessments on any Additional Land and votes, easement rights and other rights appurtenant to annexed Lots, in accordance with this Declaration, shall commence with respect to each Lot in an annexed parcel of Additional Land on the day of the first conveyance of a Lot which is within such annexed parcel to an Owner other than the Developer or a Participating Builder; and

(d) All taxes and other governmental assessments relating to the Additional Land so annexed covering any period prior to the annexation of such property shall be paid or

otherwise satisfactorily provided for by the Developer; and

(e) All Lots to be created on any portion of the Additional Land which is annexed to the Property shall be compatible with but may vary in style, quality, size and cost from Lots on the Property subject to this Declaration (for example, there may be, among other Structures, single family, multifamily, attached and detached Structures, subject to permissible zoning requirements as amended from time to time) or otherwise be set forth in the development plans submitted to the Veterans Administration, but no assurances are made as to specific cost, size, design or mix of Lots on any portion of the Additional Land; and

(f) Developer makes no assurances as to the location of improvements or the nature or extent of Exempt Property that may be constructed or created on any portion of the Additional Land. Such improvements as may from time to time exist on any portion of the Additional Land will become part of the Property if and only if the Developer's right to expand is exercised to include in the Property those portions of the Additional Land on which such improvements exist; and

(g) Developer makes no assurances as to the nature, scope, detail, design, use, or existence of improvements that may be constructed on the Additional land; and

(h) In the event all or any portion of the Additional Land shall not be added to the Property, such parcel or parcels of land may be owned, improved, developed and operated in any manner and for whatever purpose, including but not limited to non-residential purposes, without restriction, limitation or encumbrance created by this Declaration or implied or equitable servitude; and

(i) The scheme of the within Declaration shall not be made applicable to any portion of the Additional Land unless, until and only to the extent such portion of such Additional Land is annexed to the Property as herein provided; and

(j) Any annexations made pursuant to this Article, or otherwise, shall be made by recording a Supplementary Declaration of Covenants and Restrictions (a "Supplementary Declaration") among the land records of Charles County, Maryland, which Supplementary Declaration shall extend the scheme of the within Declaration to such Additional Land. Such Supplementary Declaration may contain such complementary additions and modifications to the within Declaration as necessary to reflect the different character or use, if any, of such Additional Land, provided, however, that in no event shall any addition or modification be substantially inconsistent with the provisions of the within Declaration except as provided for in Subsection (k) below; and

(k) In the event that any Supplementary Declaration made pursuant hereto provides that a greater or lesser level of service shall be provided by the Association with respect to the Declaration, then such Supplementary Declaration may provide for a respect to such



Additional Land, and the Association is hereby authorized to make equitable adjustments in the procedures set forth in Article IV for the establishment of Annual Assessments to reflect the different level of services; and

(l) So long as any Lot is encumbered by a deed of trust or mortgage which is either insured by the Federal Housing Administration or guaranteed by the Veterans Administration, no annexation shall be made pursuant to this Article, or otherwise, unless the Federal Housing Administration and/or the Veterans administration, as applicable, shall have determined that the annexation conforms to a general plan of development of the Property previously approved by the aforementioned agencies.

**8.02. Expansion by Association.** The Association may annex to the Property and subject to this Declaration any other property, whether or not such annexed property is part of the Additional Land, upon such terms and conditions as are acceptable to the Association and upon the approval of (i) the Board of Directors; (ii) more than two-thirds (2/3) of the votes cast by the Class A Members who are voting in person or by proxy at a meeting of the Members duly called for such purpose at which a quorum is present; and (iii) during the Development Period, the Developer. Article X may require the consent of the Veterans Administration or the Federal Housing Administration for such annexation.

### **Article IX - Easements and Reservations**

#### **9.01. Utility Easements.**

(a) There is hereby reserved unto the Developer during the Development Period, and (i) by the execution hereof each of the Trustees and Participating Builders, and (ii) by acceptance of his/her deed to a Lot, each Owner hereby and thereby, grants to the Developer during the Development Period on their behalf with full power of attorney coupled with an interest, the right, power, and authority to grant and/or create or declare easements, rights-of-way, licenses, restrictions and reservations over, upon, across, through and under, and otherwise enter into agreements restricting or encumbering the "Easement Area" of each Lot and/or any portion of the Community Facilities, for ingress, egress, installation, replacement, restoration, repair, maintenance and similar purposes of roadways and utility and service lines and systems including, but not limited to, water, sewer, gas, telephone, electricity, television, cable lines, and communication lines and systems and drainage and stormwater management facilities and for other purposes related to or included in Land Development Activity (collectively "Easements"). The right, power, and authority of the Developer as set forth above shall include such right, power, and authority to amend, modify and supplement any such Easements, as the Developer determines necessary or appropriate without the approval of the Association, Trustees, Participating Builders or Owners. By virtue of this Article IX, the Developer and/or any Person authorized by the Developer, including but not limited to the providing utility or service company, may install, repair, and maintain facilities and equipment on the Property, excavate for such purposes, and affix and maintain, inter alia, wires, circuits and conduits on, in and under the

roofs and exterior walls of dwelling units, provided the Developer or Person so installing and/or maintaining such equipment and facilities agrees and is obligated to restore disturbed areas substantially to the condition in which they were found. The authority reserved in this Article may be exercised without the consent of the Association, any member, any Owner, any Resident, or any other Person; provided that upon request by the Developer, the Association, Member, Owner and/or Resident affected by such activity, right-of-way, easement, license, restriction or reservation shall execute such Easements.

(b) "Easement Area" means (i) those areas on each Lot with respect to which Easements are shown on any recorded plat depicting such Lot, (ii) the portion of any Lot which is within twenty-four (24) feet of the center line of any public right-of-way whether or not shown on as recorded plat, and (iii) if no Easements are shown on the recorded plat depicting such Lot, a strip of land within the Lot lines of each Lot which is fifteen (15) feet wide in front and fifteen (15) feet wide at the rear and on each side, each distance being measured from the Lot line toward the center of the Lot.

(c) The Developer anticipates declaring, creating, dedicating or otherwise conveying to one or more publicly or privately owned Persons, portions of the Property for the purposes of installing, maintaining, operating, repairing, replacing, and for similar purposes relating to the providing of water and/or sewer services to the Lots and/or other portions of the Property. The Developer may identify such portions of land as "well lots" or in any other manner on recorded plats of subdivision for those affected areas of the Property. Such identified portions of the Property shall be known as "Utility Lots" for the purpose of the Association Documents. Neither the Association nor any Owner, other than the Developer, nor any Person claiming by or through the Association or any Owner other than the Developer and its designees and licensees shall have any right, title or interest in and to such Utility Lots.

**9.02. Developer's Easement to Correct Drainage.** For a period of two (2) years after the date of the first conveyance of each Lot to an Owner other than the Developer or a Participating Builder, the Developer shall have an easement and right on, over and under the ground within that Lot to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. This right includes the right to cut any trees, bushes or shrubbery, to make any gradings of the soil or to take any other similar action necessary or appropriate. After entering upon a Lot for the purpose of this Section and completing its actions hereunder, the Developer shall restore the affected Lot to its original condition as nearly as practicable. The Developer shall give all affected Members reasonable notice of its intent to take such action unless in the opinion of the Developer an emergency exists which precludes such notice.

**9.03. Easement for Governmental Personnel.** A right of entry on any Lot or Community Facility is hereby granted to law enforcement officers and fire and rescue personnel as needed to carry out their duties, including enforcement of cleared emergency vehicle access routes. A right of entry on any of the Community Facilities is hereby granted to animal wardens

for the enforcement of Charles County's animal control ordinance, if any, and any similar health regulations.

**9.04. Easement for Structures.** In the event any portion of a Structure inadvertently encroaches upon any Community Facility or upon any Easement Area or upon any Lot other than the Lot for which such Structure was intended to be erected, constructed or implanted, pursuant to plans and specifications developed by or on behalf of the Developer or a Participating Builder and filed with appropriate Charles County authorities, as a result of the construction, reconstruction, repair, restoration, shifting, settlement, or movement of such Structure, a valid easement for the encroachment and for its maintenance shall exist and be maintained so long as the encroachment exists.

**9.05. Easement for Water Authority.** The Developer reserved the right to lease, sell or grant an easement in and to any lake and any park area included in the Community Facilities to a public water authority or private water company to be used as a source for water supply, such lease, sale or grant to be made under terms and for consideration determined by Developer, and to inure to the benefit of the Developer; such sale, lease, or grant, however, to be made with the reservation of all rights and easements of enjoyment of the Owners and Residents in and to the use of the Community Facilities granted herein that are not inconsistent with the use of any such lake as a water supply for human consumption and/or water irrigation.

**9.06. Reservation Over Easement Area.** The Developer reserves unto itself, its designees, assignees and licensees, the right to install, construct, repair, replace, and maintain utilities, lighting apparatus and systems, signage, sidewalks, and mailboxes located within each Easement Area. In the event any light apparatus and system, signage, sidewalk, mailbox or mailboxes shall be installed within an Easement Area, the Owner of the Lot which is burdened by such improvement(s) shall be primarily responsible for the maintenance, repair, restriction, and replacement thereof; provided that (i) the cost thereof may be assumed any Cluster upon approval of the applicable Cluster Committee and (ii) if the Owner shall fail to discharge its obligations hereunder, the Association may perform the obligations of such Owner, and assess the Owner all costs incurred by the Association as a consequence of the Owner's failure to discharge such obligations.

**9.07. Reservation of Right to Contract for Bulk Billed Services.** The developer reserves the right to enter into contracts from time to time for the benefit of the Association for the installation, pre-wiring and hook-up of services including, without limitation, such as cable television service and telephone service. The charges for such services shall be assumed by the Association and billed as a part of the Annual Community and Cluster Assessments.

#### **Article X - Government Agencies**

**10.01. Consent of Federal Agencies.** Notwithstanding compliance with the other provisions of this Declaration, as long as the Developer is a Class B Member, the following

actions will require the prior approval of the Federal Housing Administration and/or the Veterans Administration, as applicable to the extent such entity is the holder, guarantor, or insurer of a first mortgage encumbering a Lot:

- (a) Annexation of additional properties subject to the provision of Article VIII above; and
- (b) Mortgaging or Dedication of Community Facilities; and
- (c) Amendment of and supplements to this Declaration.

If the disapproval of one of these agencies has not been communicated to the Developer within sixty (60) days after the Developer has sent such agency written notice of the intended action, then such agency shall be deemed to have approved the intended action.

**10.02. Rights of the Planning Commission ("Commission" herein).** Any other provision of this Declaration or the Bylaws or Articles of Incorporation of the Association to the contrary notwithstanding, neither the Members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent of the Commission, or its designee, which consent shall not be unreasonably withheld or delayed:

- (a) abandon, partition, dedicate, subdivide, encumber, sell or transfer any of the Common Area, provided, however, that the granting of rights-of-way, easements and the like for public utilities or for other purposes consistent with the use of the Common Area by the Members of the Association shall not be considered a transfer within the meaning of this Section; or
- (b) abandon or terminate the Declaration; or
- (c) modify or amend any material or substantive provision of this Declaration, or the Bylaws or the Articles of Incorporation of the Association; or
- (d) merge or consolidate the Association with any other entity or sell, lease, exchange or otherwise transfer all or substantially all of the assets of the Association to any other entity; or
- (e) substantially modify the method of determining and collecting assessments as provided in this Declaration.

The Commission shall have the right to bring action for any legal or equitable relief necessary to enforce the rights and powers granted to the Commission hereunder.

**Article XI - Cluster Committees****11.01. Cluster Committees.**

(a) For any particular Cluster, the Cluster Committee shall be established by the Board of Directors pursuant to the Bylaws of the Association.

(b) For any particular Cluster, the Cluster Committee shall have only those duties and responsibilities, and only that authority, assigned to it by the Bylaws or delegated to it by the Board of Directors, or the rules and regulations of the Board of Directors. Any duties, responsibilities and authority so assigned and delegated to a Cluster Committee shall not be exclusive, but rather shall be subject to the rights, duties, responsibility and authority of the Association and the Board of Directors.

**Article XII - Party Walls**

**12.01. Definition; General Rules of Law.** Each wall built during original construction as a division wall common to Structures built on adjoining Lots shall be a "Party Wall" and, to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability with respect thereto shall apply to such Party Walls. Each of the Owners of adjoining Lots shall own in severalty so much of any Party Wall as stands upon his Lot, subject to the easements, covenants, conditions and restrictions provided for in this Declaration. A Party Wall shall not include the decorated surface within a home or any finishing materials or items applied to that surface (including but not limited to paint, lacquer, varnish, wallpaper, tile, carpeting or paneling).

**12.02. Easements, Covenants, Conditions and Restrictions.** The following easements, covenants, conditions and restrictions shall govern the use, maintenance, repair, restoration, reconstruction and improvement of Party Walls:

(a) **Easement of Use.** The Owner of a Structure shall have the right and easement to use so much of any Party Wall as is owned by an adjoining owner for any purpose not inconsistent with joint use of the wall or prohibited in this Declaration. This right of use shall include the right to enter the Lot and Structure of an adjoining Owner at reasonable times and as reasonably necessary to maintain, repair, restore, reconstruct or improve the Party Wall or any Structure.

(b) **Maintenance of Structural Integrity.** The expense of repair and maintenance for the purpose of maintaining the structural integrity of a Party Wall shall be borne equally by Owners of Structures divided by it. However, if an Owner or anyone for whose act an Owner would be legally liable causes a Party Wall to be exposed to the elements by any act, whether negligent, willful or intentional, that Owner shall bear the entire cost of weatherproofing the Party Wall to protect it from the elements.

(c) Damage or Construction. In the event of damage or destruction of a Party Wall, then repair, restoration or reconstruction shall be undertaken as soon as possible. The expense of repair, restoration or reconstruction of a Party Wall shall be borne equally by Owners of the Structures divided by it regardless of each Owner's interest in the Party Wall. Nothing in this Article shall be construed to release any Owner from liability for damages caused by him or his negligence or willful acts or omissions.

(d) Prohibited Uses. Without the consent of the DRB and adjoining Owners, no Person subject to this Declaration may make openings in a Party Wall, decrease or increase the thickness of a Party Wall, add to or extend a Party Wall or place or construct chimney flues or fireplaces against a Party Wall.

(e) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the Lot and shall pass to such Owner's successors in title.

(f) Arbitration. In the event of any dispute concerning a Party Wall, or arising under the provisions of this Article, such dispute shall be brought to the Board of Directors for resolution. The decision of the Board of Directors shall be final and binding on all parties concerned.

### Article XIII - Miscellaneous

13.01. Duration. The covenant and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of twenty (20) years unless amended or terminated as provided in this Article.

#### 13.02. Amendment or Termination.

(a) Subject to Subsection (b) below, the provisions of this Declaration may be amended in whole or in part or, except as otherwise provided in Section 10.01 above, terminated by a recorded instrument executed by Owners of at least two-thirds ( $\frac{2}{3}$ ) of all Lots. Any amendment or termination during the Development Period shall become effective only with the written consent of the Developer. The right of Owners to amend this Declaration is subject to the rights of the Veterans Administration and/or the Federal Housing Administration as provided elsewhere in this Declaration or under the Act.

(b) Notwithstanding Subsection (a) above, the Developer reserves the right to amend this Declaration during the Development Period without the consent of any Insurers, Guarantors, Owners, Residents or other Persons claiming an interest in the Property or the Association if the amendment is necessary to bring this Declaration into compliance with any

rule, order regulation or requirement of the Federal Housing Administration, the Veterans Administration, FNMA, FHLMC, Charles County or the State of Maryland.

(c) If the Veterans Administration or the Federal Housing Administration does not permit the Association to do otherwise, then upon any termination of the Association and this Declaration, the Community Facilities and any other assets of the Association remaining after dissolution shall pass to one or more successors or substitute homeowners' associations or similar bodies with jurisdiction over any part of the Property or, if there is no such successor or substitute, to Charles County or the State of Maryland, as appropriate as provided in the laws of the State of Maryland.

### **13.03. Enforcement.**

(a) The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges imposed now or in the future by the provisions of this Declaration or the Articles of Incorporation or Bylaws of the Association. Failure by the Association or by any Owner to enforce any covenant or restriction shall not be deemed a waiver of the right to do so in the future. The provisions of this Section shall be in addition to and not in limitation of any rights or remedies provided in other Sections of this Declaration or under the Act.

(b) In addition to any other remedies it may have under the provisions of the Declaration, the Association shall have the right to seek any available remedy or relief, including the remedy of specific performance, permitted under the Act or other laws of the State of Maryland for any violation of the Declaration, Bylaws, Articles of Incorporation or rules or regulations for which an Owner or Resident and their respective family members, tenants, guests or other invitees are responsible.

(c) If the Association or an Owner shall commence any action at law or in equity, then the prevailing party in such action(s) shall be entitled to receive, and the other party shall pay, its reasonable attorneys' fees and costs incurred in connection with such action(s).

**13.04. Severability.** Invalidation of any one of the provisions of this Declaration by judgment or court order shall not affect any other provisions of this Declaration and all other provisions shall remain in full force and effect.

**13.05. Construction.** The Board of Directors shall have the right to construe the provisions of this Declaration, and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, the construction by the Board of Directors shall be final and binding as to all persons and entities benefitted or bound by this Declaration.

**13.06. Headings and Cross References.** The headings of the Articles of Sections of this Declaration are for conveniences only and shall not affect the meaning or construction of the

contents of this Declaration. Unless a contrary intent clearly appears, any references in this Declaration to an "Article" or "Section" or "Subsection" shall be construed, respectively, as referring to an article of this Declaration, a section of this Declaration or a subsection of the section of this Declaration in which the reference to a "Subsection" appears.

**13.07. Gender and Number.** Throughout this Declaration the masculine gender shall be deemed to include the feminine and neuter, and the singular shall be deemed to include the plural, and vice versa.

**13.08. No Waiver.** The waiver by the Association of any breach or violation of any provision of this Declaration shall not be deemed to be a waiver of any other current or future breach or violation of that or any other provision of this Declaration.

**13.09. Joinder.** The Trustees identified below join in this instrument for the sole purposes of (i) subjecting all of their respective rights, titles and interests in the Property to the covenants, conditions, restrictions and reservations contained in this Declaration, (ii) granting to the Developer, and ratifying and confirming, all rights, reservations, declarations, and easement of or in favor of the Developer set forth in this instrument, and (iii) otherwise submitting such rights, titles and interests in the Property to the general scheme of development provided hereby.

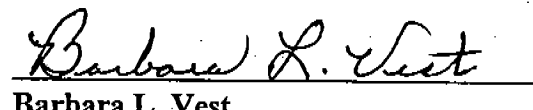
IN WITNESS WHEREOF, the undersigned has duly made and executed this Declaration as of the day and year first above written.


WITNESS:



  
Louis Raye Vest



  
Barbara L. Vest



  
George W. Finch



  
Barbara R. Finch

[JURATS FOLLOW]



State of Maryland

:

SS:

County of Charles

:

I hereby certify that on this 21<sup>st</sup> day of May, 1996, before me, the subscriber, a notary public in and for the jurisdiction aforesaid, personally appeared Louis Raye Vest, known to me (or satisfactorily proven) and acknowledged that he executed the foregoing instrument.

Karen D. Hogge  
Notary Public

My Commission expires: 7/25/98

LIBER 0010 FOLIO 181

State of Maryland

:

SS:

County of Charles

:

I hereby certify that on this 21<sup>st</sup> day of May, 1996, before me, the subscriber, a notary public in and for the jurisdiction aforesaid, personally appeared Barbara L. Vest, known to me (or satisfactorily proven) and acknowledged that she executed the foregoing instrument.

Karen D. Hogge  
Notary Public

My Commission expires: 7/25/98

State of Maryland

:

SS:

County of Charles

:

I hereby certify that on this 21<sup>st</sup> day of May, 1996, before me, the subscriber, a notary public in and for the jurisdiction aforesaid, personally appeared George W. Finch, known to me (or satisfactorily proven) and acknowledged that he executed the foregoing instrument.

Karen D. Hogge  
Notary Public

My Commission expires: 7/25/98

[ADDITIONAL JURAT FOLLOWS]

LIBER 2282 FOLIO 292

LIBER 2241 FOLIO 186

State of Maryland

:

SS:

County of Charles

:

I hereby certify that on this 21<sup>st</sup> day of May, 1996, before me, the subscriber, a notary public in and for the jurisdiction aforesaid, personally appeared Barbara R. Finch, known to me (or satisfactorily proven) and acknowledged that she executed the foregoing instrument.

Karen D. Hogge  
Notary Public

My Commission expires: 7/25/96

LIBER 0010 FOLIO 282

LIBER 2282 FOLIO 293

LIBER 0010 FOLIO 283

LIBER 2241 FOLIO 187

EXHIBIT "A-1"

BERRY VALLEY, Section One

DESCRIPTION OF THE PROPERTY

All of those lots, parcels or portions of real property situate in the 6th Election District of Charles County, Maryland as more particularly described on the following Final Plats of Subdivision:

"Plat 1, Section One, BERRY VALLEY", recorded among the Land Records of Charles County, Maryland in Plat Book 48, at Page 267 on May 31, 1996; and

"Plat 2, Section One, BERRY VALLEY", recorded among the Land Records of Charles County, Maryland in Plat Book 48, at Page 268 on May 31, 1996; and

"Plat 3, Section One, BERRY VALLEY", recorded among the Land Records of Charles County, Maryland in Plat Book 48, at Page 269 on May 31, 1996; and

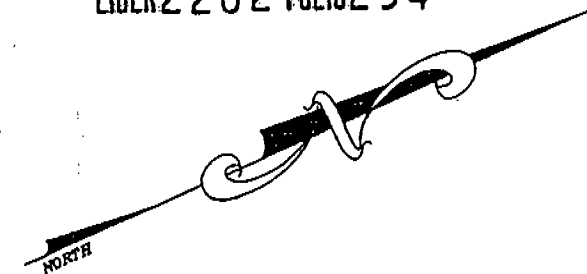
"Plat 4, Section One, BERRY VALLEY", recorded among the Land Records of Charles County, Maryland in Plat Book 48, at Page 270 on May 31, 1996.

LIBER 2282 FOLIO 294

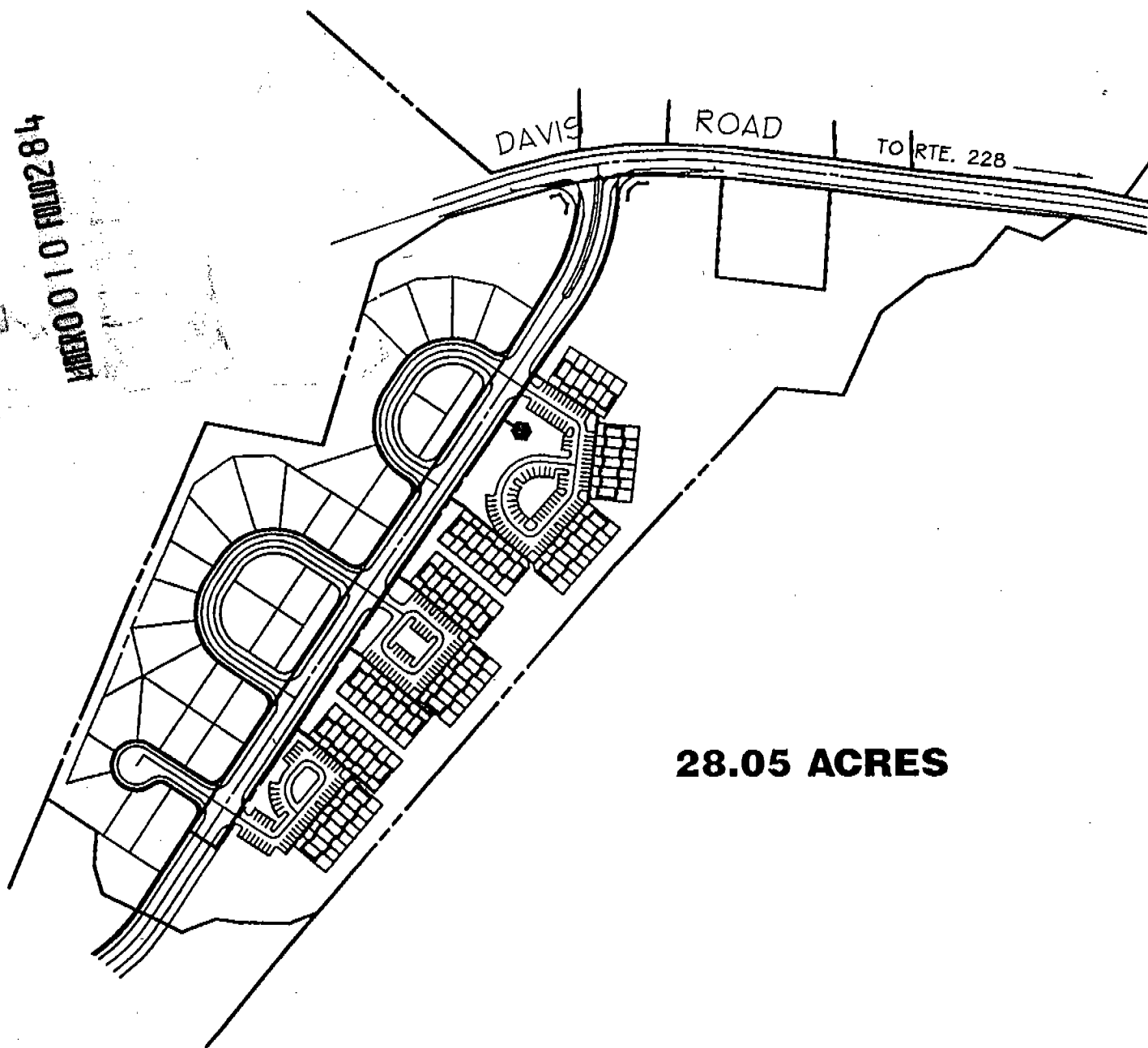
LIBER 2241 FOLIO 188

EXHIBIT

A-2



LIBER 010 FOLIO 284



28.05 ACRES

EXHIBIT OF  
SECTION ONE  
"BERRY VALLEY"

6th ELECTION DISTRICT  
CHARLES COUNTY, MD.



DH Steffens Co.®

ENGINEERS  
LAND SURVEYORS  
LAND PLANNERS

317 CHARLES STREET • LA PLATA, MD 20646 • 834-2921 • 870-3263  
100 EXPLORATION DR., SUITE 1020 • LEXINGTON PARK, MD 20653 • 862-2226 • 1-800-331-1568

PLAT BOOK	LIBER	DATE	SCALE
		5/96	1" = 300'
PLAT NO.	FOLIO	FILE NO.	
		C3009	

R2282 FOLIO 295

DAVIS RD.

ROUTE 225

LIBER 224 FOLIO 189

EXHIBIT  
**B**

# EXHIBIT OF ENTIRE PROPERTY "BERRY VALLEY"

6th ELECTION DISTRICT  
CHARLES COUNTY, MD

LIBER 010 FOLIO 285

**241 ACRES**

MIDDLETOWN ROAD

TO RTE 225

TO BLINGLY RD.



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100 EXPLORATION DR., SUITE 1020 • LEXINGTON PARK, MD 20653 • 862-2226 • 1-800-331-1568

PLAT BOOK	LIBER	DATE <b>5/96</b>	SCALE <b>1" = 500'</b>
PLAT NO.	FOLIO	FILE NO. <b>C3009</b>	

**BERRY VALLEY, Section One  
DESCRIPTION OF REAL PROPERTY  
WITHIN COMMON FACILITIES**

All of the following parcels or portions of real property situate in the 6th Election District of Charles County, Maryland, more particularly described as:

Open Space "A" containing approximately 1.1679 acres, and Open Space "B" containing approximately 5.7286 acres, as shown on a Final Plat of Subdivision entitled "Plat 1, Section One, BERRY VALLEY", recorded among the Land Records of Charles County, Maryland in Plat Book 48, at Page 267 on May 31, 1996; and

Open Space "C" containing approximately 0.5005 acres, Open Space "D" containing approximately 2,745 square feet, and Open Space "E" containing approximately 2.2202 acres, as shown on a Final Plat of Subdivision entitled "Plat 2, Section One, BERRY VALLEY", recorded among the Land Records of Charles County, Maryland in Plat Book 48, at page 268 on May 31, 1996; and

Open Space "F" containing approximately 0.4247 acres, Open Space "G" containing approximately 2,745 square feet, and Open Space "H" containing approximately 1.6398 acres, as shown on a Final Plat of Subdivision entitled "Plat 3, Section One, BERRY VALLEY", recorded among the Land Records of Charles County, Maryland in Plat Book 48, at Page 269 on May 31, 1996; and

Open Space "I" containing approximately 18,888 square feet, Open Space "J" containing approximately 1.6990 acres, and Open Space "K" containing approximately 6,613 square feet, as shown on a Final Plat of Subdivision entitled "Plat 4, Section One, BERRY VALLEY", recorded among the Land Records of Charles County, Maryland in Plat Book 48, at page 270 on May 31, 1996.

**SUPPLEMENTARY DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
BERRY VALLEY COMMUNITY ASSOCIATION, INC.**

THIS SUPPLEMENTARY DECLARATION made this 9<sup>th</sup> day of July 1997, by  
Lewis Raye Vest, Barbara L. Vest, George W. Finch and Barbara R. Finch (the "Developer") and  
R & G Development, LLC, a Maryland Limited Liability Company (the "Substitute Developer").

**WITNESSETH:**

**WHEREAS**, by Declaration of Covenants, Conditions and Restrictions, recorded as of  
June 13, 1996 in Liber 2241 at folio 137 of the Land Records of Charles County, Maryland  
(hereinafter referred to as the "Declaration"), certain parcels of land were subjected to the  
covenants, conditions and restrictions therein set forth; and

**WHEREAS**, by Confirmatory Deed recorded in Liber 2364, Folio 050 on April 18, 1998  
and Deed recorded in Liber 2368, Folio 109 on April 29, 1997, title in the Property defined in the  
Declaration was transferred to R & G Development, LLC; and

**WHEREAS**, Article I, Section 1.23 of the Declaration provides that the Developer may  
assign and transfer all or part of its right, title, interest and obligations in the Declaration by an  
instrument in writing, which shall be recorded among the Land Records of Charles County; and

**WHEREAS**, Developer desires to assign and transfer all of its right, title, interest and  
obligations in the Declaration to the Substitute Developer, R & G Development,  
Maryland Limited Liability Company; and

**WHEREAS**, Substitute Developer desires to assume all of the right, title, interest and  
obligations of the Developer under the Declaration; and

IMP FD SURE \$ 2.00  
RECORDING FEE 20.00  
TOTAL 22.00  
Rest CH04 Rcrd # 7079  
DGB JCC Blk # 782  
Jul 18, 1997 12:34 PM

RECORDING FEE 25.00  
NOTAC a 25.00  
Rest CH04 Rcrd # 7078  
DGB JCC Blk # 783  
Jul 18, 1997 12:35 PM

**WHEREAS**, Article VIII, Section 8.01 of the Declaration provide that, upon certain terms, the Developer has the right to annex additional land to the Property as defined in the Declaration.

**WHEREAS**, Developer and Substitute Developer desire to annex additional land to the Property.

**NOW, THEREFORE,**

1. Developer hereby assigns to Substitute Developer all of the reservations, rights, easements, interests, exemptions, privileges, powers and obligations of the Developer as set forth in the Declaration.

2. Substitute Developer hereby assumes and agrees to be bound by and to perform fully all of the reservations, rights, easements, interests, exemptions, privileges, powers and obligations of the Developer as set forth in the Declaration.

3. The assignment herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns hereunder.

**FURTHER PROVIDED,**

4. Pursuant to Article VIII, Section 8.01 of the Declaration, Developer and Substitute Developer hereby declares that all of the properties hereinafter described shall be held sold and conveyed subject to the Declaration, recorded as set forth herein,, and do hereby amend said Declaration to include therein, and to subject to the terms thereof, all those properties more fully described on Exhibit "A" attached hereto and made a part hereof.



5. Declarant hereby expressly reserves and retains the right to annex such additional property as it shall from time to time wish to have annexed, subject to the terms and conditions of Article VIII of the Declaration.

6. All provisions of the said Declaration are hereby affirmed in their entirety, except as modified hereinabove.

IN WITNESS WHEREOF, the Developer and the Substitute Developer, respectively, herein have caused these presents to be executed on the date and year first above written.

WITNESS:

DEVELOPER:

Louie J. Webb  
Louie J. Webb  
Louie J. Webb  
Louie J. Webb

Lewis Raye Vest  
Lewis Raye Vest

Barbara L. Vest  
Barbara L. Vest

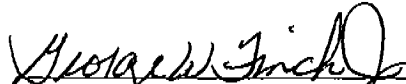
George W. Finch  
George W. Finch

Barbara R. Finch  
Barbara R. Finch

(signatures continued on following page)

LIBER 2407 FOLIO 372  
WITNESS:

## SUBSTITUTE DEVELOPER:

R & G DEVELOPMENT, LLC, a Maryland limited  
liability companyBy:   
Lewis Raye Vest, MemberBy:   
George W. Finch, MemberSTATE OF MARYLAND  
COUNTY OF CHARLES

I HEREBY CERTIFY that on this 1st day of July, 1997, before me, the undersigned Notary Public, personally appeared Lewis Raye Vest, who acknowledged himself to be an individual of Developer and that he as such individual, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing his name as such individual.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
Notary PublicMy Commission expires: 11/9/99

(acknowledgments continued on following page)

LIBER 2407 FOLIO 373  
STATE OF MARYLAND  
COUNTY OF CHARLES

LIBER 0010 FOLIO 23 LIBER 0010 FOLIO 291

I HEREBY CERTIFY that on this 1st day of July, 1997, before me, the undersigned Notary Public, personally appeared Barbara L. Vest, who acknowledged herself to be an individual of Developer and that she as such individual, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing her name as such individual.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Keri Davis  
Notary Public

My Commission expires: 11/9/99

STATE OF MARYLAND  
COUNTY OF CHARLES

I HEREBY CERTIFY that on this 1st day of July, 1997, before me, the undersigned Notary Public, personally appeared George W. Finch, who acknowledged himself to be an individual of Developer and that he as such individual, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing his name as such individual.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Keri Davis  
Notary Public

My Commission expires: 11/9/99

(acknowledgments continued on following page)

LIBER 2407 FOLIO 374  
STATE OF MARYLAND  
COUNTY OF CHARLES

LIBER 0010 FOLIO 292  
LIBER 0010 FOLIO 24

I HEREBY CERTIFY that on this 1st day of July, 1997, before me, the undersigned Notary Public, personally appeared Barbara R. Finch, who acknowledged herself to be an individual of Developer and that she as such individual, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing her name as such individual.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Keri Davis  
Notary Public

My Commission expires: 11/9/99

STATE OF MARYLAND  
COUNTY OF CHARLES

I HEREBY CERTIFY that on this 1st day of July, 1997, before me, the undersigned Notary Public, personally appeared Lewis Raye Vest, who acknowledged himself to be a member of R & G Development, LLC and that he as such member, being authorized to do so executed the foregoing instrument for the purposes therein contained by signing the name of the Company by himself as such member.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Keri Davis  
Notary Public

My Commission expires: 11/9/99

(acknowledgments continued on following page)

LIBER 2407 FOLIO 375  
STATE OF MARYLAND  
COUNTY OF CHARLES

LIBER 0010 FOLIO 25

I HEREBY CERTIFY that on this 1st day of July, 1997, before me, the undersigned Notary Public, personally appeared George W. Finch, who acknowledged himself to be a member of R & G Development, LLC and that he as such member, being authorized to do so executed the foregoing instrument for the purposes therein contained by signing the name of the Company by himself as such member.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Kim Davis  
Notary Public

My Commission expires: 11/9/99

LIBER 0010 FOLIO 293

## EXHIBIT "A"

All of that property, lots, parcels and open space located within Phase One of the Berry Valley Subdivision as depicted on the following Final Plats of Subdivision:

"Plat One, Section Two, BERRY VALLEY" recorded in Plat Book 48, Page 157 among the Land Records of Charles County, Maryland; and

"Plat Two, Section Two, BERRY VALLEY" recorded in Plat Book 48, Page 158 among the Land Records of Charles County, Maryland; and

"Plat Three, Section Two, BERRY VALLEY" recorded in Plat Book 48, Page 159 among the Land Records of Charles County, Maryland; and

"Plat Four, Section Two, BERRY VALLEY" recorded in Plat Book 48, Page 160 among the Land Records of Charles County, Maryland; and

"Plat Five, Section Two, BERRY VALLEY" recorded in Plat Book 48, Page 161 among the Land Records of Charles County, Maryland; and

"Plat Six, Section Two, BERRY VALLEY" recorded in Plat Book 48, page 162 among the Land Records of Charles County, Maryland; and

"Plat Seven, Section Two, BERRY VALLEY" recorded in Plat Book 48, page 163 among the Land Records of Charles County, Maryland; as amended by "Plat of Correction for Lot 124, Plat Seven, Section Two, BERRY VALLEY" recorded in Plat Book 49, Page 1 among the Land Records of Charles County, Maryland; and

"Plat Eight, Section Two, BERRY VALLEY" recorded in Plat Book 48, page 164 among the Land Records of Charles County, Maryland; and

"Plat One, Section Three, BERRY VALLEY" recorded in Plat Book 48, Page 232 among the Land Records of Charles County, Maryland; and

"Plat Two, Section Three, BERRY VALLEY" recorded in Plat Book 48, Page 233 among the Land Records of Charles County, Maryland; and

"Plat Three, Section Three, BERRY VALLEY" recorded in Plat Book 48, Page 234 among the Land Records of Charles County, Maryland; and

"Plat Four, Section Three, BERRY VALLEY" recorded in Plat Book 48, page 235 among the Land Records of Charles County, Maryland; and

"Plat Five, Section Three, BERRY VALLEY" recorded in Plat Book 48, page 236 among the Land Records of Charles County, Maryland.

**SAVE AND EXCEPT** all Public Road Rights-of-Way to be deeded to Charles County, Maryland, including but not limited to, Lombard Drive, Lexington Drive, Bismark Street, Radford Street, Tulsa Court, Wichita Court and Montpelier Drive, as depicted on the above-referenced plats.