

**Annual Meeting Minutes**  
**Bennington on the Park Condominium Inc**

**Bennington On The Park Condominium  
Unit Owners Association, Inc.  
Annual Meeting of Members**

Wednesday, December 9, 2015

SunTrust Conference Room  
4801 Courthouse Street, Suite 100  
Williamsburg, Virginia 23188

**Minutes**

1. Board Members present: Marshall Warner, President; Bob Hershberger, Vice-President and Jon Liebler, Secretary-Treasurer, Andy Piplico, and Derek Robertson. Town Management present: Randy Casey-Rutland. Mike Dudash, Cole Casey. Also present were Members: Margaret Hershberger, Bill Schmierer, Melba Myers, Jere Denton, Jordon Smolko, Alexandra Gross, Jon Weber, and Charles Smith.
2. Meeting Called to order at 4:05 and proof of notice was established. Everyone introduced themselves.
3. Minutes of the Annual Meeting of Owners on December 8, 2014 were approved.
4. Annual Insurance Review: State Farm representative was on the speaker telephone and discussed the Association's insurance policy. Building is currently valued for insurance purposes at \$11,137,200.
5. Mr. Casey-Rutland presented the Balance Sheet as of December 31, 2014 and the Budget vs. Actual January through December 2014. He also presented the Balance Sheet as of October 31, 2015 and the Budget vs. Actual January through October 2015. He noted that the Association has spent more money than it has taken in during 2015 (when taking into account transfers to reserves as an "expense"), because of the deductible for the insurance claim and other repairs to the building.
6. Managing Agent's report
  - a. Randy listed the various maintenance and repair items that had been done around the Association this past year.
  - b. Copies of the executive summary of the replacement reserve study were distributed and the recommendations were discussed. Andy Piplico offered to review the study. The Board agreed. Town Management will provide Andy a complete copy of the study.
  - c. The process and final details of the insurance claim from the frozen sprinkler pipe was discussed. The Association has received final payment from State Farm covering expenses, except for the \$5,000 deductible. All agreed State Farm had worked with the Association fairly.

7. The proposed annual budget for 2016 was discussed. The primary reason for the proposed increase in owner assessments was to increase contributions to replacement reserves in light of the recommendations from the recently completed study. Most owners present were comfortable and supportive of the increase. However, the Board voted 2 in favor (Marshall, Bob) and 2 opposed (Andy, Jon), Derek had to leave the meeting early and was not present for this vote. The proposed budget failed. Another motion was made to keep owner assessments the same in 2016 as in 2015, reduce the contributions to replacement reserves sufficiently to balance out the other needs in the budget. This motion was approved. Town Management was to distribute this new budget to Board members and owners within the next few days.
8. Election of Members to the Board of Directors: Jon Liebler was elected to a three-year term. Mr. Warner and Mr. Piplico start their second year of a three-year term. Derek Robertson starts his third year of his three year term.
9. IRS Tax Treatment of Operating Revenue Surplus: This Resolution was approved unanimously.
10. Question/Comments from Members:
  - a. Bill Schmierer voice several concerns which were discussed by all present. Bill suggested that all owners be allowed to lease their units, rather than having a limit on the number of leased units. This idea was considered but not adopted. Bill voiced concerns about the number and size of pets in the Building. Andy and the Board agreed to send a letter to all owners and tenants reinforcing the rules about pets. Bill voiced concerns about bikes and other items left in the hallways on occasion. All were encouraged to report this problem as soon as possible to Town Management so that it could be addressed with the occupants of the unit. Bill asked about the assignment of the covered parking spaces and about the possibility of switching places with an assigned parking place of a tenant when that tenant moved out. Jon & Andy agreed to work with Bill and others who had an interest. All were reminded that if an official switch were to be proposed, that the Board should approve so that Town Management could record the change in the Association records.
11. The meeting was adjourned at 6:00 P.M.

Respectfully submitted,

Town Management

**Annual Meeting Minutes**  
**New Town Commercial Association Inc**

# **New Town Commercial Association, Inc.**

## **Annual Meeting of Members**

**Legacy Hall  
4301 New Town Avenue  
Williamsburg, Virginia 23188**

**Thursday, November 17<sup>th</sup>, 2015 at 11:00 AM**

### **Minutes**

Present: Lawrence Salzman, President; John McCann, Vice President; Scott Grafton and Marshall Warner, Board Members; Gregory Davis, Counsel for New Town Commercial Association; Randy Casey-Rutland, President of Town Management; Town Management; Cole Casey, Secretary of the Association; Michael Dudash, Kirsten Rumsey, Corina Paulsen, Catherine Upton, Town Management;

Meeting was called to order by Mr. Salzman at 11:00 A.M. Mr. Salzman made introductions of the Board members and Town Management staff present. The other attendees were invited to introduce themselves.

Assistant Secretary, recording the Minutes, Cole Casey was appointed to do so by Mr. Salzman.

Proof of Notice and Quorum established was noted by Mr. Casey-Rutland.

Minutes of the November 6, 2014 Meeting were approved.

#### Financial Report:

Mr. Casey-Rutland reviewed the Balance Sheet as of December 31, 2014 and the Profit & Loss Report for January through December 2014, prepared by an outside CPA, and the Balance Sheet as of September 30<sup>th</sup>, 2015 and the Profit & Loss vs. Actual of January through September 2015. Mr Casey-Rutland also noted that, unlike prior years, during 2015 the NTCA will have spent more funds out of reserves than in has added to reserves. The reasons for the larger than normal expenditures include: an unusually expensive snow season early in 2015, significant parking lot repairs, purchase of benches, as well as the routing and continuing work on lights, fences, dumpster enclosures, etc. Mr Casey-Rutland reminded those present that reserves are intended to work this way – money is added to reserves with the knowledge and anticipation that the funds will be used when needed. Some years the reserves grow and some years the reserves are used. The Association remains financially healthy.

#### Management Report:

Ms. Upton reported on the marketing of New Town in 2015. Including advertising with Virginia Living Magazine and Next Door Neighbor Magazine. Promoting traffic of non-residents Williamsburg to New Town, 50,000 New Town brochures continue to be distributed annually.

Announced was an enhanced website for New Town Commercial Association. The Christmas decorations to be completed the weekend before Thanksgiving.

Mr. Grafton, President, of New Town Business Association (NTBA). The NTBA with 55 members seeks to sponsor events enhancing quality of life and increasing business in New Town. While Summer Fest hosted over 800 people and Chili Fest and Trick or Treat on Main Street were successful, in 2015 both Chalk Fest and Music Fest severely impacted by weather (the former was cancelled). 2016 NTBA calendar includes: Chalk Fest, Summer Fest, Chili Fest, and Trick or Treat on Main Street. Periodic "low-key" block parties will be planned in lieu of a concert. NTBA will support Christmas on Main Street with The Fife and Drum Parade in conjunction with Tree lighting event at Civic Green.

Mr. Salzman reported 12½% of the NTCA budget goes to promotional events.

#### Maintenance:

Snow and ice treatment was addressed by Mr. Casey-Rutland. VDOT is now responsible for many of the New Town roads, and consequently the plowing and treatment of these public roads during winter weather. Beginning in 2016, all winter weather work on privately owned parking lots and adjacent walkways will be the responsibility of the private parking lot owner. NTCA owners have already been notified of this change. Snow service for buildings on parking lots owned by the NTCA is not affected.

Mr Casey-Rutland also noted that NTCA had spent funds during 2015 on street and parking lot light repair, bench replacements, dumpster doors replacements, ground water well repairs, BMP maintenance, fence and gazebo painting.

Landscaping in 2015 suffered from a period poor performance. Mr. Casey-Rutland added, however, there was improvement in the past couple of months and additional work provided without additional expense to the Association. 2016 Commercial Landscaping RFPs including the detailed scope of work were being evaluated.

A bus stop shelter, in partial fulfillment of a proffer, was recently installed by the developer and is the first in New Town. Mr. Salzman said it is located by Sentara and will be owned by WATA.

#### Old Business:

Storage Building update, Mr. McCann reported the budgeted facility will be located at the end of Discovery Park. New Town Residential Association will share this expense. NTCA currently expense off-site storage.

Time-limited parking in New Town, said Mr. Salzman, will expanded past Main Street onto other streets during 2016.

Mr Salzman noted that VDOT accepted many of roads in New Town this last September 9<sup>th</sup> of this year.

Shared Use Amenity Agreement, Joint Council of NTCA and NTRA was established to advise on shared amenities and common areas. NTCA representatives: Scott Grafton, Larry Salzman,

and Marshall Warner. The NTRA will also select three members. Mr. Salzman reported Mr. McCann will Chair the Joint Council.

#### New Business:

Election of two class "A" officers to NTCA Board was held. No nominations were heard from the floor. Three members had previously been nominated: Scott Grafton, Marshal Werner, and Drew Haynie. Votes by secret ballot were based upon density assigned to NTCA Members property. Scott Grafton and Marshal Werner were elected to serve terms starting 2016 as class "A" officer of the NTCA Board of Directors.

NTCA Budget proposed for 2016 was reviewed by Mr Casey-Rutland. Mr. Salzman advised that the budget would be adopted by the Board on or after December 3, 2015. Any comments by members regarding the budget should be forwarded to Mr Casey-Rutland or the Board prior to this date.

Resolution to carry forward excess funds to avert its tax liability was introduced by Mr. Salzman. It was unanimously adopted by the members.

Mr Salzman noted that the Kiosk at Main and Courthouse streets may not continue as ATM site. Mr. Salzman shared the history of its build and lease by Middleburg Bank. He added it will continue to be an information resource with the potential for advertising revenue and an interactive LCD screen. It was noted that NT Design Review Board and JCC both were favorably receptive to concepts.

#### New Town Developer Update:

Mr. Salzman, announced only developer held land was Block 18 at Watford Park, and the hotel Site behind Sullivan Square.

Mr. McCann reported a good year for Residential with new homes occupied every month. He thanked Mr. Mike Youngblood of Twitty Realty.

Mr. Drew Haynie, Thalhimer Leasing Agent for Williamsburg Developers Realty, primary owner of Main Street offered some news. BLAZE PIZZA's grand opening set for November 20, 2015, Bonfish undergoing multimillion dollar renovation will remaining open for business, and renewed leases with Victoria's Secret and Chico. Main Street was approximately 88% leased.

#### Member Comments and question:

Mr. Casey-Rutland answered the Reserve Study will likely be updated sometime in the next two years.

Mr. Drew Haynie, Thalhimer Leasing Agent for Williamsburg Developers Realty answered a question about the rock-like speakers that have recently been taken out on Main Street. It is unknown whether or not the speakers will be replaced.

Mr. Casey-Rutland answered a question about the actual cost of the NTCA/NTBA events are not represented because there are associated offsetting costs (profits).

Mr. Casey-Rutland answered, the Association's management office should be notified to dispose of furniture improperly stashed in NTCA dumpster enclosures in reply to a member inquiry.

Concerning individual and property security in New Town. Mr. Casey-Rutland affirmed New Town is very safe. James City County police are committed to keeping it that way, and the police should be called if a problem presented itself.

It was stated the current storage area on Center Street appearance would improve if the windows were blacked-out.

Adjournment: Thanking the Board Mr. Salzman adjourned the Annual Meeting at 12:34pm.

Respectfully submitted,

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Cole Casey, Assistant Secretary  
New Town Commercial Association, Inc.

**Articles of Incorporation**  
**Bennington on the Park Condominium Inc**

ARTICLES OF INCORPORATION  
OF  
BENNINGTON ON THE PARK CONDOMINIUM UNIT OWNERS ASSOCIATION  
(A non-stock corporation)

ARTICLE I.  
NAME

The name of the Association shall be Bennington on the Park Condominium Unit Owners Association (the "Association").

ARTICLE II.  
PURPOSE; DEFINITIONS

(a) The purpose for which the Association is formed is to become a condominium unit owners' association in accordance with Chapter 4.2 of Title 55 of the 1950 Code of Virginia, as amended, known as the Condominium Act, for the management, maintenance and care of Common Elements in a condominium located on Center Street, as more particularly described in Exhibit A attached to and made a part of the Declaration for Bennington on the Park, , a Condominium (the "Declaration") which is recorded in the Clerk's Office, Circuit Court of James City County, Virginia prior to the recording of these Articles. It is intended that this Association shall be a non-stock corporation which shall manage, maintain and care for certain property such that the Association will be a condominium management association as that term is defined in Section 528(c)(2) of the Internal Revenue Code of 1954, as amended. Reference is hereby made to Article I of the Declaration for the meaning of certain initially capitalized terms used herein. The Association will operate in conformity with the Condominium Instruments.

(b) The Association shall serve and act as agent for the owners of record of units in Bennington on the Park, a Condominium (the "Unit Owners") for the purpose of casting the vote for the Lot on which the Condominium is created and payment of assessments under the Amended and Restated Master Declaration of Covenants and Restrictions for New Town Commercial Properties recorded in the Clerk's Office for the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 200031430, as the same may be amended, modified or supplemented from time to time, all as more particularly set forth in the Bylaws of the Association.

ARTICLE III.  
MEMBERS

The members of the Association shall consist of all of the Owners of record of Units in the Condominium; and after termination of the Condominium, shall consist of those who were

members at the time of such termination and their successors and assigns. The Owner or Owners of each Unit shall have the right to vote as set forth in the Bylaws.

The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his Unit.

During any period in which a member shall be in default (as provided in the Bylaws and/or Declaration) in any assessment owing to the Association, such member shall not be eligible to be elected to the Board of Directors of this corporation. Such other rights and privileges as stated in the Association's Bylaws may also be suspended, after notice and hearing, for such period as may be established by the Board of Directors for violation of any rules and regulations duly established by the Association.

#### ARTICLE IV. DIRECTORS

The number of directors of the Association shall be fixed by the Bylaws and shall not be less than three (3). The members of the Board of Directors shall be designated by the Declarant until deeds conveying Units representing 75% or more of the aggregate Percentage Interests are recorded, until the expiration of the maximum period permitted by the Condominium Act, or until the Declarant voluntarily relinquishes control, whichever first occurs. Election of the successor Board of Directors shall occur upon resignation of the directors designated by the Declarant at the special meeting described in Article 2, Section 2.2 of the Bylaws. Directors shall be elected and appointed in the manner and for the terms set forth in Article 3, Section 3.4 of the Bylaws. The members of the Board of Directors shall hold office until their respective successors shall have been elected or appointed by the Unit Owner's Association, unless they die, are removed, resign, or become ineligible to continue serving on the Board.

A majority of directors shall constitute a quorum. The powers of the directors and the method to be used for their replacement shall be as set forth in the Bylaws.

#### ARTICLE V. EARNINGS

No part of the net earnings of the Association shall inure to the benefit of, or be distributable to its directors, officers or other private persons, except that the Association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payment and distribution in furtherance of the purposes as set forth in Article II hereof.

ARTICLE VI.  
REGISTERED AGENT

The address of the initial registered office of the Association shall be in the County of James City County at the following address: 4804 Courthouse Street, Suite 3A, Williamsburg, Virginia 23188 and Andrew M. Piplico, who is a resident of Virginia, who is a director of the corporation and whose business office is identical with the registered office, shall be the initial registered agent of the Association.

ARTICLE VII.  
INDEMNIFICATION

The Association shall indemnify to the fullest extent permitted by law all directors, officers, employees, agents and other persons who may by law be indemnified.

ARTICLE VIII.  
AMENDMENT OF BYLAWS

The power to amend or repeal the Bylaws of the Association shall be reserved to the members of the Association and shall be exercised in the manner set forth in Article 12 of the Bylaws.

DATED: 2/15, 2007

  
\_\_\_\_\_  
Incorporator

**Articles of Incorporation**  
**New Town Commercial Association Inc**

**AMENDED AND RESTATED**  
**ARTICLES OF INCORPORATION**  
**OF**  
**NEW TOWN COMMERCIAL ASSOCIATION**  
**(formerly New Town Master Association)**

**ARTICLE I**  
**NAME**

The name of the corporation is hereby changed from "New Town Master Association" to "New Town Commercial Association", hereinafter called the "Association".

**ARTICLE II**  
**PURPOSES**

The Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which it is formed are to provide for the management, maintenance and care of certain real estate within the development known as "New Town Commercial Properties" located in the County of James City, Virginia, and more particularly described in the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City, Virginia, as the same hereafter be amended, restated or supplemented (collectively the "Declaration"), and to provide a means whereby the Owners, acting together, may provide for the management, maintenance and care of the Common Areas, the Parking Areas and the Limited Common Areas and for this purpose to: (a) enforce the Declaration and exercise all of the powers and privileges and perform all of the duties and obligations of the Association thereunder; (b) fix, levy, collect and enforce payment by any lawful means, of all charges or Assessments pursuant to the Declaration and Bylaws; (c) pay all expenses of the Association; (d) subject to the Declaration and the Bylaws, acquire, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association; and (e) have and exercise any and all powers, rights and privileges which a corporation organized under the Nonstock Corporation Act of the Commonwealth of Virginia may by law now or hereafter have or exercise. No part of the net earnings of the Association shall inure (other than by providing management, maintenance and care of the Common Areas, the Parking Areas and the Limited Common Areas and other than by a rebate of excess membership dues, fees and assessments) to the benefit of any private individual.

### ARTICLE III DEFINITIONS

Except as expressly defined herein, all capitalized terms used herein shall have the respective meanings set forth in the Declaration or in the Bylaws of this Association.

### ARTICLE IV MEMBERSHIP

Section 4.1 Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to, and shall not be separated from, ownership of any Lot. Upon the recordation of the deed to a Lot, the membership of the selling Owner shall cease and the purchasing Owner shall become a Member of the Association. Subject to the provisions and limitations of the Bylaws and any applicable Supplemental Declaration(s) regarding the casting of votes and the payment of Assessments relating to any Lot or portion of a Lot which has been subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the owners of condominium or similar units located on or within the boundaries of a Lot shall be Members.

Section 4.2 Classes of Membership and Voting Rights. The designation of classes of membership and the voting rights of Members shall be provided in the Declaration, any applicable Supplemental Declaration(s), and the Bylaws.

### ARTICLE V BOARD OF DIRECTORS

Section 5.1 Number and Classes of Directors. The number of directors shall initially be three, shall be increased to four when the first Class A Director is elected and shall be increased to five when the second Class A Director is elected. There shall be two classes of directors during the Period of Declarant Control. The Class A Directors shall be elected at large by the Class A Members (excluding Declarant during the Period of Declarant Control but including Declarant thereafter), and the Class B Directors shall be appointed by the Class B Member. During the Period of Declarant Control, a majority of the directors shall be Class B Directors, and the remaining directors shall be Class A Directors. One Class A Director shall be elected at the first annual meeting following the date on which Declarant conveys to other Owners (other than a successor Declarant) three (3) Lots for non-residential use in Sections 2 and 4 of New Town. Two Class A Directors shall be elected at the first annual meeting following the date on which Declarant conveys to other Owners (other than a successor Declarant) six (6) Lots for non-residential use in Sections 2 and 4 of New Town. After the Period of Declarant Control ends, there shall be only one class of directors, all of whom shall be elected by the Class A Members, except that, so long as Declarant owns any Lot subject to the Declaration, Declarant may appoint one of the Class A Directors. Each elected Class A Director shall serve until removed pursuant to Section 5.4 hereof or until such director resigns or until such director's successor is elected at the next annual meeting.

Section 5.2. Declarant's Right to Appoint and Remove Directors. Declarant shall have the right to appoint or remove all Class B Directors during the Period of Declarant Control. Each Class B Director appointed by Declarant shall serve until removed by Declarant or such director resigns or until Declarant is no longer entitled to appoint Class B Directors under Section 5.1 hereof. The Class A Directors and Class B Directors need not be Owners or Occupants within the Property.

Section 5.3. Election of Class A Directors. During and after the Period of Declarant Control, each Class A Director shall be elected by a vote of the Class A Members (excluding Declarant during the Period of Declarant Control but including Declarant thereafter) except for the Class A Director appointed by Declarant as provided in Section 5.1 hereof.

Section 5.4. Removal of Class A Directors. At any regular or special meeting of the Association where the meeting notice states that the purpose, or one of the purposes, of the meeting is removal of one or more Class A Directors, such Class A Director(s) may be removed, with or without cause, by a majority of the votes entitled to be cast by the Class A Members (excluding Declarant during the Period of Declarant Control but including Declarant thereafter); provided however, that the Class A Director appointed by Declarant pursuant to Section 5.1 hereof may only be removed by Declarant and shall serve until so removed or until such director resigns or until Declarant is no longer entitled to appoint a Class A Director under Section 5.1 hereof.

Section 5.5. Vacancies. Except with respect to the Class B Directors and any Class A Director appointed by Declarant pursuant to Section 5.1 hereof, vacancies in the Board of Directors occurring for any reason other than the removal of a director by vote of the Class A Members, shall be filled by a vote of the majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors or, in the absence of any remaining directors, vacancies may be filled by the Declarant; provided however, that if during the Period of Declarant Control vacancies occur as to all of the Class A Directors, the remaining directors (or, if none, Declarant) shall call a special meeting of the Association as soon as practical thereafter in order to elect new Class A Directors. Each person so elected shall serve the unexpired portion of the term of the director being replaced. Declarant shall fill all vacancies of Class B Directors and of any Class A Director which it appoints pursuant to Section 5.1 hereof.

Section 5.6. Disqualification for Contracts with Declarant. Any director shall not be required to disqualify himself or herself upon any vote upon any management contract or other contract or lease or matter between Declarant (or any individual, partnership or corporation having an affiliation with Declarant) and the Association.

## ARTICLE VI LIMIT ON LIABILITY AND INDEMNIFICATION

6.1 Limit on Liability. In every instance in which the Virginia Nonstock Corporation Act, as it exists on the date hereon or may hereafter be amended, permits the limitation or elimination of liability of directors or officers of a corporation to the corporation or its Members or of the directors or officers of a "community association" (as defined in the Virginia Nonstock

Corporation Act), any liability of the directors and officers of this Association shall be so limited or eliminated.

6.2 Mandatory Indemnification. The Association shall indemnify any individual who is, was or is threatened to be made a party to a civil, criminal, administrative, investigative or other proceeding (including a proceeding by or in the right of the Association or by or behalf of its Members) because such individual is or was a director or officer of the Association, a member of the Architectural Review Board or of any other legal entity controlled by the Association, against all liabilities (including, without limitation, liabilities resulting from activities performed and decisions made on behalf of the Association) and reasonable expenses incurred by him or her on account of the proceeding, except such liabilities and expenses as are incurred because of his or her willful misconduct or knowing violation of the criminal law. Unless a determination has been made that indemnification is not permissible, the Association shall make advances and reimbursement for expenses incurred by any of the persons named above upon receipt of an undertaking from him or her to repay the same if it is ultimately determined that such individual is not entitled to indemnification. The Association is authorized to contract in advance to indemnify any of the persons named above to the extent it is required to indemnify them pursuant to this Section 6.2.

6.3 Miscellaneous. The rights of each person entitled to indemnification under this Article shall inure to the benefit of such person's heirs, executors and administrators. Indemnification pursuant to this Article shall not be exclusive of any other rights of indemnification to which any person may be entitled, including indemnification pursuant to a valid contract, indemnification by legal entities other than the Association and indemnification under policies of insurance purchased and maintained by the Association or others. No person shall be entitled to indemnification by the Association to the extent he or she is indemnified by another, including and insurer.

## ARTICLE VII AMENDMENT

These Articles of Incorporation may be amended pursuant to Va. Code Ann. Section 13.1-886 and with the affirmative vote of the Class B Member (until the Class B membership terminates) and the vote of two-thirds of the Class A votes (including Declarant as to Class A votes held by Declarant).

# **Budget**

**Bennington on the Park Condominium Inc**

**Bennington on the Park Condominium Unit Owners Association  
2017 Budget**

Income		2017 monthly \$ per unit	2017 Annual Total	2016 Annual Total	Annual \$ change	% change
Association Assessments	# of units					
5 Residential Apts	5	52.80	3,169.90	3,048.00	121.90	4.0%
Efficiency	1	64.10	768.80	739.20	29.60	4.0%
1 bedroom	7	189.30	15,899.50	15,288.00	611.50	4.0%
2 bedroom	30	226.70	81,619.20	78,480.00	3,139.20	4.0%
3 bedroom	3	264.20	9,509.80	9,144.00	365.80	4.0%
Total	46		110,967.20	106,699.20	4,268.00	

	2017	2016	\$ change	% change	% of Total	Notes
Total Assessments	110,967.00	106,700.00	4,267.00	4.0%	88.6%	4% inc in assessments
Water Sub meter billing	12,240.00	12,000.00	240.00	2.0%	9.8%	submeter billing, inc JSCA fees
Initial/Transfer fees	1,500.00	1,500.00	0.00	0.0%	1.2%	on ea Condo sale / resale
Bank Interest	-	-	0.00		0.0%	
Late Fees & Charges	600.00	600.00	0.00	0.0%	0.5%	
<b>Total Income</b>	<b>125,307.00</b>	<b>120,800.00</b>	<b>4,507.00</b>	<b>3.7%</b>	100.0%	

2016 Budget - Expenses	2017	2016	\$ change	% change	% of Total	
<b>General &amp; Admin</b>						
CPA, tax prep, etc	360.00	420.00	-60.00	-14.3%	0.3%	Outside CPA, tax prep
Fees, Dues, Taxes	120.00	150.00	-30.00	-20.0%	0.1%	
Insurance	16,440.00	16,000.00	440.00	2.8%	13.1%	State Farm
Legal	600.00	600.00	0.00	0.0%	0.5%	Tarley Robinson
Management Fee	6,960.00	6,700.00	260.00	3.9%	5.6%	Town Management
Misc Admin Exp	242.00	180.00	62.00	34.4%	0.2%	
Postage, Coupons, etc	-	180.00	-180.00	-100.0%	0.0%	
Reserve Study	480.00	480.00	0.00	0.0%	0.4%	every 5 years
<b>Total Admin</b>	<b>25,202.00</b>	<b>24,710.00</b>	<b>492.00</b>	<b>2.0%</b>	<b>20.1%</b>	
<b>Maintenance</b>						
Elevator	3,000.00	3,000.00	0.00	0.0%	2.4%	
Janitorial	10,320.00	10,320.00	0.00	0.0%	8.2%	A&J Cleaning Service
HVAC Maint & Reapri	1,200.00	-	1,200.00		1.0%	for common area systems
Misc Maint & Repair	8,560.00	8,560.00	0.00	0.0%	6.8%	
NTCA Assessments	27,825.00	27,300.00	525.00	1.9%	22.2%	inlues pool membership
Monitoring	320.00		320.00		0.3%	
Fire and Security	2,100.00	2,100.00	0.00	0.0%	1.7%	maintenance and repair
Supplies & Parts	600.00	450.00	150.00	33.3%	0.5%	
Termites/Pest Control	420.00	480.00	-60.00	-12.5%	0.3%	
Trash	4,620.00	4,620.00	0.00	0.0%	3.7%	basement compactor
Utilities						
Cable TV	840.00	-	840.00		0.7%	for exercise room
Electricity	5,580.00	5,700.00	-120.00	-2.1%	4.5%	common area lighting, etc
Telephone	2,580.00	2,520.00	60.00	2.4%	2.1%	elevators, etc
Water & Sewer	12,240.00	12,000.00	240.00	2.0%	9.8%	offset by submeter income
<b>Total Maintenance</b>	<b>80,205.00</b>	<b>77,050.00</b>	<b>3,155.00</b>	<b>4.1%</b>	<b>64.0%</b>	
<b>Total Operating Expenses</b>	<b>105,407.00</b>	<b>101,760.00</b>	<b>3,647.00</b>	<b>3.6%</b>	<b>84.1%</b>	
<b>Reserves</b>						
Operating Reserves	900.00	1,260.00	-360.00	-28.6%	0.7%	general savings
Replacement Reserves	19,000.00	17,780.00	1,220.00	6.9%	15.2%	see new reserve study
<b>Total Reserves</b>	<b>19,900.00</b>	<b>19,040.00</b>	<b>860.00</b>	<b>4.5%</b>	<b>15.9%</b>	
<b>Total All Expenses</b>	<b>125,307.00</b>	<b>120,800.00</b>	<b>4,507.00</b>	<b>3.7%</b>	<b>100.0%</b>	
<b>Net (Inc - Exp)</b>	-	-				

# **Budget**

**New Town Commercial Association Inc**

New Town Commercial Association  
Budget

	2016 Budget	PROPOSED 2017 Budget	\$ change	% change	% of tot Budget	Notes
<b>Income</b>						
1	CAM Association fees total					
2	689,000	703,500	14,500.00	2.1%	50.2%	Assessments noted below see proposed assessments a. and c. below
3	150,100	153,400	3,300.00	2.2%	10.9%	see proposed assessments d. and e. below
4	171,200	174,000	2,800.00	1.6%	12.4%	see proposed assessments b. below
5	42,600	49,800	7,200.00	16.9%	3.6%	\$ 11.20/mo/unit
6	255,000	257,400	2,400.00	0.9%	18.4%	offset by pass-through exp
7	24,000	18,000	-6,000.00	-25.0%	1.3%	offset by pass-through exp (less snow work)
8	1,800	1,800	0.00	0.0%	0.1%	
9	36,000	33,000	-3,000.00	-8.3%	2.4%	3-4 major events, 1-2 small events
10	1,800	1,800	0.00	0.0%	0.1%	
11	240	240	0.00	0.0%	0.0%	
12	4,800	4,800	0.00	0.0%	0.3%	
13	3,300	3,300	0.00	0.0%	0.2%	New Town Design Review Board
<b>Total Income</b>	<b>1,379,840</b>	<b>1,401,040</b>	<b>21,200.00</b>	<b>1.5%</b>	<b>100.0%</b>	
<b>Expenses</b>						
<b>Administration</b>						
14	1,200	1,200	0.00	0.0%	0.1%	outside CPA
15	21,600	21,900	300.00	1.4%	1.6%	liability, D&O, fraud, etc
16	9,900	9,000	-900.00	-9.1%	0.6%	K&C registered agent
17	1,020	1,020	0.00	0.0%	0.1%	
18	154,500	157,860	3,360.00	2.2%	11.3%	Town Management
19	3,600	3,690	90.00	2.5%	0.3%	
20	2,400	2,400	0.00	0.0%	0.2%	
21	1,500	1,500	0.00	0.0%	0.1%	per year -- study every 4-5 years
22	3,200	1,600	-1,600.00	-50.0%	0.1%	new storage builing will eliminiate
<b>Administration Subtotal</b>	<b>198,920</b>	<b>200,170</b>	<b>1,250.00</b>	<b>0.6%</b>	<b>14.3%</b>	

New Town Commercial Association  
Budget

		2016	PROPOSED 2017	\$ change	% change	% of tot	Notes
		Budget	Budget			Budget	
<b>Community Activities &amp; Events</b>							
23	Ads, Events, Promotions, etc	126,000	126,000	0.00	0.0%	9.0%	consolidated marketing plan
24	Activities and Events	48,600	48,000	-600.00	-1.2%	3.4%	partially offset by event income above
25	NTRA support	20,000	20,400	400.00	2.0%	1.5%	pool membership for all res condo owners
26	NTBA Committee	1,200	1,200	0.00	0.0%	0.1%	Committee of NT businesses
27	Design Review Board	6,000	6,600	600.00	10.0%	0.5%	partially offset by DRB income above
28	Security	31,000	30,000	-1,000.00	-3.2%	2.1%	JCC off-duty police officers
<b>Community Subtotal</b>		<b>232,800</b>	<b>232,200</b>	<b>-600.00</b>	<b>-0.3%</b>	<b>16.6%</b>	
<b>Operations and Maintenance</b>							
29	BMP Maintenance	16,800	18,360	1,560.00	9.3%	1.3%	
30	Common landscape maintain	133,800	136,500	2,700.00	2.0%	9.8%	for parks, trails, parking lot islands, etc
31	Common landscape improve	18,900	19,200	300.00	1.6%	1.4%	tree replacements, park enhancements, etc
32	Day Porter and supplies	79,500	81,300	1,800.00	2.3%	5.8%	litter, trash cans, doggie stations, etc
33	Dumpsters	120,000	125,520	5,520.00	4.6%	9.0%	trash and recycling dumpsters
34	Electrical repairs	10,200	10,200	0.00	0.0%	0.7%	
35	Fountain & supplies	7,200	7,860	660.00	9.2%	0.6%	Fountain in front of theater
36	Irrigation & well repair	4,200	4,200	0.00	0.0%	0.3%	3 wells
37	Miscellaneous Maint & Repai	9,900	9,900	0.00	0.0%	0.7%	
38	Parking & street sweeping	14,940	14,940	0.00	0.0%	1.1%	Streets, alleys, parking lots, etc
39	Powerwashing	10,020	10,200	180.00	1.8%	0.7%	dumpster enclosuers, etc
40	Signs, Pavers, Bench maint	12,000	12,000	0.00	0.0%	0.9%	
41	Snow Removal	30,000	30,900	900.00	3.0%	2.2%	Avg \$38k/yr since 2010
42	Storage Building Op Exp		1,200	1,200.00		0.1%	placeholder for ops exp. Also funds below
43	Utility: Electricity	33,960	34,440	480.00	1.4%	2.5%	street & parking lots lights, etc
<b>Repair &amp; Maint Subtotal</b>		<b>501,420</b>	<b>516,720</b>	<b>15,300.00</b>	<b>3.1%</b>	<b>36.9%</b>	
<b>Operating Expenses Subtotal</b>		<b>933,140</b>	<b>949,090</b>	<b>15,950.00</b>	<b>1.7%</b>	<b>67.8%</b>	

New Town Commercial Association  
Budget

		2016	PROPOSED 2017	\$ change	% change	% of tot Budget	Notes
		Budget	Budget				
Other							
44	Pass-through landscaping	255,000	257,400	2,400.00	0.9%	18.4%	funded by pass-through income above
45	Pass-through other	24,000	18,000	-6,000.00	-25.0%	1.3%	funded by pass-through income above
46	Storage Building fund	30,000	30,000	0.00	0.0%	2.1%	anticipate occupying building in 2017
47	Operating Reserve	9,900	10,800	900.00	9.1%	0.8%	
48	Replacement Reserve	128,400	134,280	5,880.00	4.6%	9.6%	
Other Subtotal		447,300	450,480	3,180.00	0.7%	32.2%	
Total Expenses		1,380,440	1,399,570	19,130.00	1.4%	100.0%	
Net (Income-Expense)		(600)	1,470				

2016 Assessments:

- a. 78.00 cents (up from 76.30) per sq ft of commercial area participating in shared parking
- b. \$82.60 (up from \$81.00) per allocated shared parking space
- c. 58.50 cents (up from 57.30 cents) per sq ft of commercial area not participating in shared parking
- d. 32.40 cents (up from 32.00 cents) per sq ft of residential area participating in shared parking
- e. 26.00 cents (up from 25.60 cents) per sq ft of residential area not participating in shared parking

Avg assessment increase throughout NTCA for next year is about 2.0%

Avg assessment increase over the past five years ('12-'16) has been about 1.8%

# **Bylaws**

## **Bennington on the Park Condominium Inc**

EXHIBIT F  
TO  
DECLARATION OF

BENNINGTON ON THE PARK, A CONDOMINIUM

BYLAWS

*Page 25 of 62*

**BYLAWS  
OF  
BENNINGTON ON THE PARK CONDOMINIUM UNIT OWNERS ASSOCIATION**

**TABLE OF CONTENTS**

	<b>Page</b>
<b>ARTICLE 1</b>	
General	
Section 1.1. Applicability .....	1
Section 1.2. Defined Terms .....	1
Section 1.3. Compliance .....	1
Section 1.4. Provisions of Declaration and Articles of Incorporation to Control.....	1
Section 1.5. Office .....	1
<b>ARTICLE 2</b>	
Unit Owners' Association	
Section 2.1. Composition and Powers .....	1
Section 2.2. Declarant Control Period .....	2
Section 2.3. Annual Meetings .....	2
Section 2.4. Place of Meetings .....	2
Section 2.5. Special Meetings .....	2
Section 2.6. Notice of Meetings .....	2
Section 2.7. Order of Business .....	3
Section 2.8. Voting .....	3
Section 2.9. Quorum .....	4
Section 2.10. Conduct of Meetings .....	4
Section 2.11. Ownership of Units by the Unit Owners' Association .....	4
Section 2.12. Special Meetings Regarding Voting at Meetings of the Master Association.....	4
<b>ARTICLE 3</b>	
Board of Directors	
Section 3.1. Number and Qualification .....	4
Section 3.2. Powers and Duties .....	5
Section 3.3. Managing Agent .....	7
Section 3.4. Election and Term of Office .....	8
Section 3.5. Nominations .....	8
Section 3.6. Removal of Members of Board of Directors .....	8
Section 3.7. Vacancies .....	9
Section 3.8. Organizational Meeting .....	9
Section 3.9. Regular Meetings .....	9
Section 3.10. Special Meetings .....	9
Section 3.11. Waiver of Notice .....	9

Section 3.12.	Conduct of Meetings .....	9
Section 3.13.	Quorum .....	10
Section 3.14.	Action Without Meeting .....	10
Section 3.15.	Compensation .....	10
Section 3.16.	Fidelity Bonds .....	10

**ARTICLE 4**  
Officers

Section 4.1.	Designation .....	10
Section 4.2.	Election of Officers .....	10
Section 4.3.	Removal of Officers .....	10
Section 4.4.	President .....	10
Section 4.5.	Vice President .....	11
Section 4.6.	Secretary .....	11
Section 4.7.	Treasurer .....	11
Section 4.8.	Agreements, Contracts, Deeds, Checks, Etc. ....	11
Section 4.9.	Compensation of Officers .....	11

**ARTICLE 5**  
Liability and Indemnification of Officers and Directors and Unit Owners' Association

Section 5.1.	Liability and Indemnification of Officers and Directors .....	11
Section 5.2.	Common or Interested Directors .....	12
Section 5.3.	Exculpation of the Association .....	13

**ARTICLE 6**  
Operation of the Property

Section 6.1.	Determination of Common Expenses and Assessments Against Unit Owners .....	13
Section 6.2.	Payment of Common Expenses, Default .....	16
Section 6.3.	Collection of Assessments .....	17
Section 6.4.	Maintenance, Repair, Replacement and Other Common Expenses .....	17
Section 6.5.	Additions, Alterations or Improvements by Board of Directors .....	18
Section 6.6.	Additions, Alterations or Improvements by Unit Owners .....	18
Section 6.7.	Use of Common Elements .....	19
Section 6.8.	Utility Charges .....	19
Section 6.9.	Restrictions on Use of Units and Common Elements; Rules and Regulations .....	19

**ARTICLE 7**  
Insurance

Section 7.1.	Authority to Purchase .....	21
Section 7.2.	Physical Damage Insurance .....	22
Section 7.3.	Liability Insurance .....	23
Section 7.4.	Other Insurance .....	23

Section 7.5.	Unit Physical Damage Insurance .....	23
Section 7.6.	Insurance Trustee .....	24
Section 7.7.	Board of Directors as Agent .....	25

ARTICLE 8

Repair and Reconstruction After Fire or Other Casually

Section 8.1.	When Repair and Reconstruction are Required .....	25
Section 8.2.	Procedure for Reconstruction and Repair .....	25
Section 8.3.	Plans and Specifications .....	26
Section 8.4.	Disbursements of Construction Funds .....	26
Section 8.5.	When Reconstruction Is Not Required .....	27

ARTICLE 9

Mortgagees and Mortgages

Section 9.1.	Notice to Board of Directors .....	27
Section 9.2.	Notice of Unpaid Assessments for Common Expenses .....	28
Section 9.3.	Notice of Default, Casualty or Condemnation .....	28
Section 9.4.	Insurance Proceeds and Condemnation Awards .....	28
Section 9.5.	Notice of Amendment of Declaration or Bylaws .....	28
Section 9.6.	Notice of Change in Managing Agent .....	28
Section 9.7.	Mortgagees' Approvals .....	28
Section 9.8.	Other Rights of Mortgagees .....	29

ARTICLE 10

Compliance and Default

Section 10.1.	Relief.....	29
Section 10.2.	Lien for Contributions .....	30
Section 10.3.	Subordination and Mortgage Protection .....	30

ARTICLE 11

Miscellaneous

Section 11.1.	Notices .....	30
Section 11.2.	Invalidity .....	31
Section 11.3.	Captions .....	31
Section 11.4.	Gender.....	31

ARTICLE 12

Amendments to Bylaws

Section 12.1.	Amendments .....	31
Section 12.2.	Recording.....	32

Section 12.3. Conflicts.....32  
Section 12.4. Restrictions on Amendments .....32

BYLAWS  
OF  
BENNINGTON ON THE PARK CONDOMINIUM UNIT OWNERS ASSOCIATION

ARTICLE 1

GENERAL

Section 1.1. Applicability. These are the Bylaws of BENNINGTON ON THE PARK CONDOMINIUM UNIT OWNERS ASSOCIATION (the "Association"), which has been organized for the purpose of operating and managing BENNINGTON ON THE PARK, A CONDOMINIUM, a condominium created in accordance with the laws of the Commonwealth of Virginia (the "Condominium") upon property located on Center Street, Williamsburg, James City County, Virginia, which is described in Exhibit A attached to the Declaration of Bennington on the Park, A Condominium (the "Declaration").

Section 1.2. Defined Terms. Unless otherwise defined herein, certain initially capitalized words and terms used herein shall have the same meanings defined in the Declaration.

Section 1.3. Compliance. Pursuant to the provisions of Section 55-79.53 of the Condominium Act, all Unit Owners, tenants, employees of Unit Owners or any other person that might use the Condominium or any Unit in any manner shall comply with these Bylaws and are subject to the terms and provisions of the Condominium Instruments.

Section 1.4. Provisions of Declaration and Articles of Incorporation to Control. The provisions of these Bylaws are applicable to the Condominium, and the terms and provisions hereof are expressly subject to the terms and provisions contained in the Articles of Incorporation and the Declaration.

Section 1.5. Office. The office of the Association and the Board of Directors shall be located at the Condominium or at such other place as may be designated from time to time by the Board of Directors.

ARTICLE 2

UNIT OWNERS' ASSOCIATION

Section 2.1. Composition and Powers. All of the Unit Owners, acting as a group in accordance with the Condominium Act, the Declaration, the Articles of Incorporation and these Bylaws, shall constitute the Association. The Association shall act merely as an agent for the Unit Owners as a group. The Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting the contributions to the Common Expenses, arranging for the management of the Condominium and performing all of the other acts that may be required to be performed by the Association by the Condominium Act

and the Condominium Instruments. Except for the performance of those matters which either the Condominium Act or the Declaration specifically require to be authorized by the vote of the Unit Owners, the administration of the foregoing responsibilities shall be performed by the Board of Directors as more particularly set forth in Article 3 hereof. The Association shall have, in addition to those powers listed in the Articles of Incorporation, all of the powers reasonably necessary to implement and effect the rules and objectives set forth in the Condominium Instruments.

Section 2.2. Declarant Control Period. The "Declarant Control Period" shall commence with the settlement of the first Unit to be sold by the Declarant and shall continue until the Declarant settles the sale of Units representing seventy-five percent (75%) or more of the aggregate Percentage Interests in the Condominium, but the Declarant Control Period shall not exceed the maximum two (2) year period permitted by the Condominium Act. During the Declarant Control Period, the Declarant shall be entitled to designate the officers and the Board of Directors of the Association. Within sixty (60) days after the expiration of the Declarant Control Period, a special meeting of the Unit Owners' Association shall be held. Notice of such meeting shall be given pursuant to Section 55-79.75 of the Condominium Act. At such meeting, the persons designated by the Declarant shall resign as members of the Board of Directors, and all of the Unit Owners, including the Declarant if the Declarant owns any Units, shall elect a new Board of Directors.

Section 2.3. Annual Meetings. During the Declarant Control Period, meetings of the Association shall be held at least once a year. The first such meeting shall be held within one (1) year after the date of recordation of the first deed to a Unit Owner. After the termination of the Declarant Control Period, and the new Board of Directors is elected by all the Unit Owners, the annual meetings of the Association shall be held during the second month preceding the beginning of each fiscal year of the Association, at a day, time and place as the Board of Directors may determine. At such annual meetings the Board of Directors shall be elected by a written ballot of the Unit Owners in accordance with the requirements of Section 3.4 of these Bylaws.

Section 2.4. Place of Meetings. Meetings of the Association shall be held at the principal office of the Condominium or at such other suitable place convenient to the Unit Owners as may be designated by the Board of Directors.

Section 2.5. Special Meetings. It shall be the duty of the President of the Association to call a special meeting of the Association if so directed by resolution of the Board of Directors or upon a petition signed and presented to the Secretary by Unit Owners owning not less than twenty-five percent (25%) of the Percentage Interests. The notice of any special meeting shall state the time, place and purpose of such meeting. No business shall be transacted at a special meeting except as stated in the notice.

Section 2.6. Notice of Meetings. The Secretary or his agent shall, at least twenty-one (21) days in advance of any annual or regularly scheduled meeting, and at least seven (7) days in advance of any other meeting of the Association, deliver notice of the time, place, and purpose of such meeting either personally or by United States mail, to all Unit Owners at the address of their

respective Units and to such other addresses as any of them may have designated. The Secretary or his agent may send notice by electronic transmission consented to by the Unit Owner to whom the notice is given, provided the Secretary or his agent certifies in writing that notice was sent. Notice of the time, date and place of each meeting of a subcommittee or other committee of the Association shall be published where it is reasonably calculated to be available to a majority of the Unit Owners and shall be sent by first class mail or e-mail to any Unit Owner requesting such notice as provided in § 55-79.75 B of the Condominium Act.

Section 2.7. Order of Business. The order of business at all meetings of the Association shall be as follows:

- (a) Roll Call;
- (b) Proof of notice of meeting;
- (c) Reading of Minutes of preceding meeting;
- (d) Reports of Officers and Board of Directors;
- (e) Reports of committees;
- (f) Election or appointment of inspectors of election (when so required);
- (g) Election of members of the Board of Directors (when so required);
- (h) Unfinished business; and lastly
- (i) New business.

Section 2.8. Voting. At every meeting of the Association, each Unit shall be allocated one (1) vote, notwithstanding the Percentage Interest appertaining to that Unit. The votes appertaining to any Unit may be cast pursuant to a proxy or proxies in accordance with Section 55-79.77 D of the Condominium Act and approved by the Board of Directors. No proxy shall be revocable except by actual notice to the person presiding over the meeting of the Association, by the Unit Owner (or, if the Unit is owned by more than one person, by any of such persons), that it be revoked. Any proxy shall be void if it is not dated, or if it purports to be revocable without notice as aforesaid. The proxy of any person shall be void if not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Any proxy shall terminate automatically after the first meeting held on or after the date of that proxy or any recess or adjournment of that meeting held within thirty (30) days thereafter. The proxy shall include a brief explanation of the effect of leaving the proxy uninstructed. A vote or proxy may be submitted by electronic transmission, provided that any such electronic transmission shall either set forth or be submitted with information from which it can be determined that the electronic submission was authorized by the Unit Owner or the Unit Owner's proxy. Unless greater than a majority vote is otherwise specifically required by the Condominium Act or by the Condominium Instruments, the vote of a majority of the aggregate votes cast in person or by

proxy at a duly convened meeting at which a quorum is present is required to adopt decisions made at any meeting of the Association. No Unit Owner may vote at any meeting of the Association, or be elected as a director or officer of the Association, if the Association has perfected a lien against his Unit which is not discharged at the time of the meeting, or there are any assessments against the Unit Owner that are sixty (60) days past due.

Section 2.9. Quorum. A quorum shall be deemed to be present throughout any meeting of the Association until adjourned if persons entitled to cast more than fifty percent (50%) of the votes, whether in person or by proxy, are present at the beginning of the meeting. If a quorum is not present at the beginning of the meeting, the meeting shall be adjourned to a time not less than forty-eight (48) hours from the time of adjournment. A quorum shall be deemed to be present throughout such succeeding meeting if persons entitled to cast more than fifty percent (50%) of the votes, whether in person or by proxy, are present at the beginning of the meeting.

Section 2.10. Conduct of Meeting. The President shall preside over all meetings of the Association. The Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting and all other transactions occurring thereat. The President may appoint a person to act as Parliamentarian at the beginning of each meeting. The most current edition of Roberts Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the Declaration, these Bylaws or the Condominium Act.

Section 2.11. Ownership of Units by the Unit Owners' Association. The Association may acquire, own and transfer title to a Unit, but the vote appertaining to a Unit owned by the Association may not be cast or counted for any purpose.

Section 2.12. Special Meetings Regarding Voting at Meetings of the Master Association. Upon receipt of notice of any meeting of the Master Association at which a vote of the Master Association is to be taken, the President of the Association to call a special meeting of the Association prior to the date of the meeting of the Master Association. The notice of any special meeting shall state the time, place and purpose of such meeting. At such meeting the Unit Owners shall vote on the matters to be addressed at the meeting of the Master Association and the vote of the Lot upon which the Condominium is located will be determined by a majority vote of the Unit Owners. The Association, acting through its President or another officer of the Association appointed by the Board of Directors for such purpose, shall act as agent of the Unit Owners for purposes of casting the votes applicable to the Lot on which the Condominium is located on all matters voted on by the Unit Owners at such special meeting and on all other matters that may be raised at such meeting of the Master Association.

### ARTICLE 3

#### BOARD OF DIRECTORS

Section 3.1. Number and Qualification. The affairs of the Condominium shall be governed by a Board of Directors. During the Declarant Control Period, the Declarant shall have the right to designate the members of the Board of Directors. The initial Board of Directors shall

be composed of three (3) persons, who may but need not be Unit Owners or officers or, employees of Unit Owners, or Mortgagees (or designees of Mortgagees) of Units. After the Declarant Control Period, the Board of Directors shall consist of five (5) persons, four (4) of whom shall be elected by a vote of the Owners of the Residential Units and one (1) of whom shall be appointed by the Owners of the Commercial Units. For two (2) years after the Declarant Control Period, the Declarant may appoint an individual who shall be entitled to notice of all meetings of the Board of Directors, and who may speak at the meetings but cannot vote.

Section 3.2. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things which are not, by the Condominium Act or by these Bylaws, directed to be exercised and done by the Association. The Board of Directors shall have the power from time to time to adopt any rules and regulations (the "Rules and Regulations") deemed appropriate by it for the governance of the Condominium; provided, however, the Rules and Regulations shall not be in conflict with the Condominium Act or the Declaration, or these Bylaws. Copies of the Rules and Regulations shall be furnished by the Board of Directors to each Unit Owner. Amendments to the Rules and Regulations shall be conspicuously posted prior to the time when the same shall become effective and copies thereof shall be furnished to each Unit Owner upon request. The Rules and Regulations are in addition to any Rules and Regulations adopted from time to time by the Master Association and, to the extent of any conflict between the Rules and Regulations of the Condominium and the Rules and Regulation of the Master Association, the Rules and Regulation of the Master Association shall control. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to, and be responsible for, those duties and functions of the Association set forth in Sections 55-79.79 and 55-79.80 of the Condominium Act. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board shall on behalf of the Association:

- (a) Prepare an annual budget, in which there shall be expressed the assessments of each Unit Owner for the Common Expenses.
- (b) Adopt an annual budget as prepared in Section 3.2(a) above.
- (c) Make assessments against Unit Owners to defray the costs and expenses of the Condominium, establish the means and methods of collecting such assessments from the Unit Owners, and establish the period of the installment payment of the annual assessment for Common Expenses.
- (d) Provide for the operation, care, upkeep and maintenance of all of the Property and services of the Condominium.
- (e) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the Common Elements and provide services for the Property and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment. Supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the Property.

- (f) Collect the assessments against the Unit Owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors and use the proceeds to carry out the administration of the Property.
- (g) Make and amend the Rules and Regulations.
- (h) Open bank accounts on behalf of the Association and designate the signatories thereon.
- (i) Make, or contract for the making of, repairs, additions and improvements to or alterations of the Condominium property, and repairs to and restoration of the Condominium property, in accordance with these Bylaws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.
- (j) Enforce by legal means the provisions of the Declaration, these Bylaws and the Rules and Regulations, act on behalf of the Unit Owners with respect to all matters arising out of any eminent domain proceeding, and notify the Unit Owners of any litigation against the Association involving a claim in excess of ten percent of the amount of the annual budget; provided, however, that before filing any claim against the Declarant, the design professionals or the contractor of the Condominium, the Association must secure the approval of Unit Owner's representing at least 80% of the Units in the Condominium.
- (k) Obtain and carry insurance against casualties and liabilities, as provided in Article 7 of these Bylaws, pay the premiums therefor and adjust and settle any claims thereunder.
- (l) Pay the cost of all authorized services rendered to the Association and not billed to Unit Owners of individual Units or otherwise provided for in Sections 6.1 and 6.2 of these Bylaws.
- (m) Keep books with detailed accounts in chronological order of the receipts and expenditures affecting the Property, and the administration of the Condominium, specifying the expenses of maintenance and repair of the Common Elements and any other expenses incurred. Such books and vouchers shall be available for examination by the Unit Owners, their attorneys, accountants, Mortgagees and authorized agents during normal business hours on Business days at the times and in the manner set and announced by the Board of Directors for the general knowledge of the Unit Owners. All books and records shall be kept in accordance with generally accepted accounting principles. The Board shall also keep available for inspection during normal business hours by Unit Owners, their attorney, accountants, Mortgagees and authorized agents current copies of the Declaration, Bylaws and Rules and Regulations.
- (n) Notify a Mortgagee of any default hereunder by the Unit Owner of the Unit subject to such Mortgage, if such default continues for a period exceeding sixty days.
- (o) Borrow money on behalf of the Association required in connection with any one instance relating to the operation, care, upkeep and maintenance of the Common

Elements; provided, however, that the consent of at least two-thirds in number of all Unit Owners, obtained either in writing or at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required to borrow any sum in excess of ten percent (10%) of that fiscal year's annual budget. If any sum borrowed by the Board of Directors on behalf of the Condominium pursuant to the authority contained in this subsection (o) is not repaid by the Association, a Unit Owner who pays to the creditor a percentage of the total amount due equal to his Percentage Interest, shall be entitled to obtain from the creditor a release of any judgment or other lien which such creditor shall have filed or shall have the right to file against such Unit Owner's Condominium Unit, and the Association shall not be entitled to assess his Unit for payment of the remaining amount due such creditor.

(p) Notwithstanding the borrowing limitations set forth in Section 3.2 (o) of these Bylaws, acquire, hold and dispose of Condominium Units and mortgage the same without limitations as to amount if such expenditures and hypothecations are included in the budget adopted by the Board of Directors.

(q) In its sole discretion, from time to time to designate certain Common Elements as Reserved Common Elements and impose such restrictions and conditions on the use thereof as the Board of Directors deems appropriate. However, the Board of Directors shall make no such designation of Reserved Common Elements as would interfere with the Unit Owners' use of Common Elements for ingress and egress or any other function of a Common Element which is necessary to the proper functioning and maintenance of the Condominium and the Units.

(r) Furnish the statement required by Section 55-79.97 of the Condominium Act, within ten days after the receipt of a written request therefor from any Unit Owner.

(s) Grant, as attorney-in-fact on behalf of all Unit Owners and their successors in title, easements through the Common Elements and accept easements benefiting the Condominium or any portion thereof.

(t) Do such other things and acts not inconsistent with the Condominium Act or the Condominium Instruments which the Board of Directors may be authorized to do by a resolution of the Association.

Section 3.3. Managing Agent. The Board of Directors may employ a professional Managing Agent for the Condominium at a compensation established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize. Any contract with a Managing Agent entered into during the Declarant Control Period must provide that such contract may be terminated by either party without cause and without payment of a termination fee or penalty by written notice which (i) states that such contract shall terminate on a date which is no more than ninety (90) days after the date of such notice, and (ii) is given not more than sixty (60) days after the termination of the Declarant Control Period. Additionally, any contract with a Managing Agent entered into during the Declarant Control Period shall be for a term not in excess of two (2) years; shall not provide for renewal or extension terms in excess of two (2) years; and shall provide that at the end of any such term, the Board of Directors may terminate

any further extension or renewal periods. Any provision of such contract that does not comply with this section shall be deemed to have been modified to conform hereto upon the full execution of the contract.

Section 3.4. Election and Term of Office.

(a) Election of Directors by the Owners of the Residential Units. At the first meeting of the Association following the end of the Declarant Control Period, the term of office of two (2) members of the Board of Directors elected by the Owners of the Residential Units shall be fixed at three (3) years, the term of office of one (1) member of the Board of Directors shall be fixed at two (2) years, and the term of office of one (1) member of the Board of Directors shall be fixed at one (1) year. The first Board of Directors to be elected by the Owners of the Residential Units shall be elected simultaneously with one ballot or election. The two people receiving the highest number of votes shall be elected for the three (3) year terms. The person receiving the third highest number of votes shall be elected for the two (2) year term. The person receiving the fourth highest number of votes shall be elected for the one (1) year term. In the event of a tie in the balloting, persons shall be designated among the classes of directors by drawing lots. At the expiration of the initial term of office of each respective member of the Board of Directors, that member's successor shall be elected to serve for a term of three (3) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

(b) Appointment of Member of the Board of Directors by Owners of Commercial Units. In addition to the election of four (4) Members of the Board of Directors by the Owners of the Residential Units, the Owners of the Commercial Units shall have the right to appoint one (1) member to serve on the Board of Directors, such member to be appointed annually and shall hold office until his successor shall have been appointed by the Owners of the Commercial Units.

Section 3.5. Nominations. Nominations for election by the Owners of the Residential Units as members of the Board of Directors at the annual meeting shall occur only as set forth in this section. In order to be nominated, a nomination petition signed by at least three (3) Unit Owners (other than the Unit Owner which is nominated, if a Unit Owner is nominated) shall be submitted to the Board of Directors at least twenty-one (21) days before the annual meeting. The petition shall include a statement that the Unit Owner is willing to be nominated, and a biographical sketch of the nominee. The Board of Directors shall cause the names of all those who are duly nominated, along with a copy of their biographical sketches, to be mailed or hand delivered to every Unit Owner in the Condominium not less than ten (10) days prior to the annual meeting. Nominations from the floor at the annual meeting shall be prohibited unless there are less than two (2) persons nominated to fill each of the designated vacancies on the Board of Directors.

Section 3.6. Removal of Members of Board of Directors. Except during the Declarant Control Period, at any duly called regular or special meeting of the Association, any one or more of the members of the Board of Directors who are elected by the Owners of the Residential Units may be removed with or without cause by a majority of the Residential Unit Owners and a

successor may then and there be elected to fill the vacancy thus created. However, any Director whose removal has been proposed by the Residential Unit Owners shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting. The member of the Board of Directors appointed by the Owners of the Commercial Units may be removed only by such Commercial Unit Owners.

Section 3.7. Vacancies. Vacancies in the Board of Directors who have been elected by the Residential Unit Owners caused by any reason other than the removal of a Director by a vote of the Association shall be filled by a vote of a majority of the remaining Directors at a special meeting of the Board of Directors held for that purpose promptly after the occurrence of any such vacancy. Each person so elected shall be a member of the Board of Directors for the remainder of the term of the member being replaced.

Section 3.8. Organizational Meeting. The date of the first meeting of the members of the Board of Directors elected at the annual meeting of the Association shall be determined by the Board of Directors immediately following the Association meeting and no further notice shall be necessary to the newly elected members of the Board of Directors. Such meeting shall occur within thirty (30) days following the annual meeting of the Association.

Section 3.9. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but meetings shall be held at least once every three (3) months during each fiscal or calendar year of the Association. Notice of the time, date and place of regular meetings of the Board of Directors, or of any subcommittee or other committee thereof, shall be given to each Director, by mail, e-mail or hand delivery, at least three (3) business days prior to the day designated for such meeting. Notice shall also be published where it is reasonably calculated to be available to a majority of the Unit Owners and shall be sent by first class mail or e-mail to any Unit Owner requesting such notice as provided in § 55-79.75 B of the Condominium Act.

Section 3.10. Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) business days' notice to each Director, given by mail, e-mail or hand delivery. The notice shall state the time, date, place and purpose of the meeting and shall be given contemporaneously to Unit Owners to the extent reasonable under the circumstances. Special meetings of the Board of Directors may be called by the President or Secretary in like manner and by like notice upon the written request of at least two (2) Directors.

Section 3.11. Waiver of Notice. Any Director may, at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall constitute a waiver of notice by him of the time and place of such meeting. If all Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 3.12. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors. The Secretary shall keep the minute book of the Board of Directors and shall record all resolutions adopted by the Board of Directors and all transactions and proceedings

occurring at such meetings therein. The most current edition of Roberts Rules of Order shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Declaration, these Bylaws or the Condominium Act. All meetings of the Board of Directors, including any subcommittee or other committee thereof, shall be open to all Unit Owners of record.

Section 3.13. Quorum. A quorum of the Board of Directors shall be deemed to be present throughout any meeting of the Association until adjourned if more than fifty percent (50%) of the Directors entitled to vote are present at the beginning of the meeting. A meeting shall not begin and no action shall be taken unless a quorum is present.

Section 3.14. Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors.

Section 3.15. Compensation. Directors shall not receive any compensation.

Section 3.16. Fidelity Bonds. The Board of Directors may require adequate fidelity bonds for all Officers and employees of the Condominium handling or responsible for Condominium funds. The premiums on such bonds shall constitute a Common Expense.

#### ARTICLE 4

#### OFFICERS

Section 4.1. Designation. The principal Officers of the Condominium shall be the President, Vice President, Secretary, and Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary. The President, but no other officer, shall be required to be a member of the Board of Directors.

Section 4.2. Election of Officers. The officers of the Condominium shall be elected annually by the Board of Directors and shall hold office until a successor is elected.

Section 4.3. Removal of Officers. Upon the affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor may be elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors.

Section 4.4. President. The President shall be the chief executive of the Condominium and a voting member of the Board of Directors. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general powers and duties which are incident to the office of president of a nonstock corporation organized under the Virginia Nonstock Corporation Act, including but not limited to, the power to appoint

committees from among the Unit Owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Condominium.

Section 4.5. Vice President. The Vice President shall take the place of the President and perform the President's duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint a member of the Board of Directors to act in the place of the President on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors or by the President.

Section 4.6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors, and he shall have charge of such books and papers as the Board of Directors may direct, and shall, in general, perform all the duties incident to the office of the secretary of a nonstock corporation organized under the Virginia Nonstock Corporation Act.

Section 4.7. Treasurer. The Treasurer shall have the responsibility for Condominium funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data, and shall be responsible for the deposit of all monies and other valuable effects in the name of the Board of Directors or the Managing Agent, in such depositories as may from time to time be designated by the Board of Directors. An annual audit of the Association's financial records may be conducted at the discretion of the Board of Directors. Upon payment of a fee to the Association in an amount established by the Board of Directors from time to time, but not to exceed that permitted pursuant to the Condominium Act, as amended from time to time, the Treasurer shall issue a Certificate of Resale pursuant to the Condominium Act to any Unit Owner within the period of time required by the Condominium Act. Other forms may be used by the Association provided that they comply with the Condominium Act. Pursuant to Section 55-79.84, upon payment of a \$10.00 fee to the Association, the Treasurer will issue to a Unit Owner a statement setting forth the amount of any unpaid assessments against the Unit Owner.

Section 4.8. Agreements, Contracts, Deeds, Checks, etc. All agreements, contracts, deeds, leases, checks and other instruments of the Association, shall be executed by an officer of the Association or by such other person as may be designated by the Board of Directors.

Section 4.9. Compensation of Officers. Officers shall not receive any compensation.

## ARTICLE 5

### LIABILITY AND INDEMNIFICATION OF OFFICERS AND DIRECTORS AND UNIT OWNERS' ASSOCIATION

Section 5.i. Liability and Indemnification of Officers and Directors. The Association shall indemnify every officer and director of the Association against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon any officer or director in

*Page 40 of 62*

connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the Board of Directors) to which the officer or director may be made a party by reason of being or having been an officer or director of the Association regardless of whether he is an officer or director at the time such expenses are incurred. The officers and directors of the Association shall not be liable to the Unit Owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The officers and directors of the Association shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors are Unit Owners) and the Association shall indemnify and forever hold each officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director of the Association, or former officer or director of the Association, may be entitled.

**Section 5.2. Common or Interested Directors.** The Board of Directors shall exercise its powers and perform its duties in good faith and with a view to the interests of the Association and Condominium. A contract or other transaction between the Association and one or more of its Directors, or between the Association and any corporation, firm or association (including the Declarant) in which one or more of the Directors of the Association are directors or officers or are pecuniarily or otherwise interested, shall not be void or voidable because such Director or Directors are present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because such Director's or Directors' votes are counted for such purpose, provided that any of the conditions specified in any of the following subparagraphs exist:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes and the Board of Directors authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

(b) The fact of the common directorate or interest is disclosed or known to the Unit Owners, or a majority thereof, and they approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(c) The cost of any services or goods contracted for is competitive with the cost of like services or goods provided by other reputable companies offering such services or goods in the Williamsburg, Virginia metropolitan area; or

(d) The contract or transaction is commercially reasonable for the Condominium and to the Association at the time it is authorized, ratified, approved or executed.

A common or interested Director may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote thereat to authorize any contract or transaction as if he were not such a common or interested Director or officer.

*Page 41 of 62*

Section 5.3. Exculpation of the Association. The Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for as a Common Expense, or for injury or damage to any person or property caused by the elements or by the Unit Owner of any Unit, or any other person, or resulting from electricity, water, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment. The Association shall not be liable to any Unit Owner for loss or damage, by theft or otherwise, of articles which maybe stored upon any of the Common Elements. No offset, diminution or abatement of any assessments, as elsewhere provided herein, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements or from any action taken by the Association to comply with any law or ordinance or with the order or directive of any municipal or other governmental authority.

## ARTICLE 6

### OPERATION OF THE CONDOMINIUM

#### Section 6.1. Determination of Common Expenses and Assessments Against Unit Owners.

(a) Fiscal Year. Unless otherwise determined by the Board of Directors, the fiscal year of the Association shall be the calendar year, except that in the initial year of operation of the Association, the fiscal year shall commence with the consummation of the sale of the first Unit and shall end on December 31.

(b) Preparation and Approval of Budget. Each year on or before December 1, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount which it considers necessary to pay (i) the cost of utility services, maintenance, management, operation, repair and replacement of the Common Elements; (ii) the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Condominium Act, the Condominium Instruments, or a resolution of the Board of Directors, and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Common Elements, including Limited Common Elements, of the Condominium and the rendering to the Unit Owners of all related services and (iii) all assessments payable to the Master Association pursuant to the Master Declaration. The budget may also include:

(1) The cost of any maintenance, repair and replacement of any Unit if such maintenance, repair or replacement, or is reasonably necessary in the discretion of the Board of Directors to protect the Common Elements or to preserve the appearance or value of the Condominium or is otherwise in the interest of the general welfare of all Unit Owners. No maintenance, repair or replacement of any Unit shall be undertaken without (1) a resolution by the Board of Directors, and (2) prior to reasonable written notice to the Unit Owner of the Unit proposed to be maintained, repaired or replaced. Unless the Board of Directors determines otherwise after consideration of all relevant factors, the cost of any maintenance, repair or replacement to a Unit shall be assessed against the Unit to which such maintenance, repair or replacement is performed. Once so assessed, a statement for the amount thereof shall be

rendered promptly to the Unit Owner at which time the assessment shall become due and payable and shall constitute a continuing lien and obligation of the Unit Owner as provided in these Bylaws and Section 55-79.84 of the Condominium Act.

(2) Any amount necessary to discharge any lien or encumbrance levied against the Condominium, or any portion thereof, which may, in the opinion of the Board of Directors, constitute a lien against the Common Elements.

(3) Any reasonable amounts as the Board of Directors considers necessary to provide a working fund for the Association, a general operating reserve, and reserves for contingencies and replacements. The Board of Directors shall send to each Unit Owner a copy of the budget, in itemized form, which sets forth the amount of the Common Expenses payable by each Unit Owner, at least ten (10) days prior to the beginning of the fiscal year to which the budget applies. The budget shall constitute the basis for determining each Unit Owner's contribution towards the Common Expenses of the Association.

(c) Assessment and Payment of Common Expenses. The total amount of the estimated funds required for the operation of the Association set forth in the budget for the fiscal year adopted by the Board of Directors shall be assessed against each Unit in proportion to its Percentage Interest, and shall constitute a lien against each Unit as provided in Section 55-79.84 of the Condominium Act. The total annual Common Expense assessment shall be due and payable when such assessment is made, but installment payments of one-twelfth (1/12) of the assessment for such fiscal year may be made monthly, in advance, beginning on or before the first day of the first month of the fiscal year, and continuing on the first day of each of the succeeding eleven (11) months. The obligation to pay annual Common Expense assessments applicable to a Unit shall (i) commence on the earlier of (a) the first day of the first calendar month following the issuance of a certificate permitting occupancy of the Unit, or (b) sixty (60) days after the conveyance of the first Unit, and (ii) be prorated for any partial year if the date that the obligation to commence paying annual Common Expense assessments is other than the first day of the Association's fiscal year. Such payments shall be made by each Unit Owner to the Board of Directors or the Managing Agent (as determined by the Board of Directors) without offset, reductions or counterclaims. Within sixty (60) days after the end of each fiscal year, the Board of Directors shall supply to all Unit Owners an accounting of the Common Expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Board of Directors for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves. Such information shall be available to Mortgagees upon submission of a written request therefor. In addition, any Mortgagee shall have the right to have an audited financial statement prepared at the Mortgagee's expense. Any amount accumulated in excess of the amount required for actual expenses and reserves may, if the Board of Directors deems it advisable, be credited, according to each Unit's Percentage Interest, to the installments due in the succeeding months of that or the following fiscal year.

(d) Assessments of Master Association. Each Unit Owner will pay a monthly assessment to the Master Association; provided, however, the Association shall serve and act as agent for the Unit Owner for purposes of assessments under the Master Declaration. The Master

Page 43 of 62

Association retains the right to enforce the collection of all assessment due under the Master Declaration as provided in the Master Declaration and in any manner permitted by Virginia law.

(e) Reserves. The Board of Directors shall accumulate and maintain reasonable reserves for working capital, operations, contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against reserves allocated thereto. If the reserves are inadequate for any reason, including nonpayment of any Unit Owner's assessment, the Board of Directors may at any time levy a further assessment, which shall be assessed against the Units according to their respective Percentage Interests, and which may be payable in a lump sum or in installments as the Board of Directors may determine. The Board of Directors shall give written notice of any such further assessment to all Unit Owners, by mail or hand delivery, stating the amount, the reasons therefor, and the due date for payment of such assessment. All Unit Owners shall be obligated to pay the adjusted monthly amount or, if the additional assessment is to be paid in a lump sum, payment shall be due and payable no earlier than 90 days after delivery or mailing of the notice. All Unit Owners shall be obligated to pay the additional assessment unless the Unit Owners by a majority of votes cast, in person or by proxy, at a meeting of the Association convened in accordance with the provisions of these Bylaws within 60 days of the delivery or mailing of the notice required by this subsection, rescind or reduce the additional assessment. No director or officer of the Association shall be liable for failure to perform his fiduciary duty if an additional assessment for the funds necessary for the director or officer to perform his fiduciary duty is rescinded by the Association in accordance with this subsection. The Association shall indemnify such director or officer against any damage resulting from any claimed breach of fiduciary duty arising therefrom.

(f) Initial Capital Payment.

(1) Upon taking office, the first Board of Directors elected or designated pursuant to these By-Laws shall determine the budget, as defined in this Section, for the period commencing thirty days after such election and ending on the last day of the fiscal year in which such election occurs. Assessments shall be levied and become a lien against the Unit Owners during such period as provided in paragraph (c) of this Section.

(2) Declarant, as the agent of the Board of Directors, will collect from each initial purchaser at the time of settlement as "Initial Capital Payment" equivalent to twice the sum of the estimated monthly assessment for Common Expenses for such purchaser's Unit plus One Thousand Dollars (\$1,000.00). Declarant will deliver the funds so collected to the Board of Directors. Within thirty days after the expiration of the period of declarant control, Declarant shall pay to the Board of Directors an amount equal to the "Initial Capital Payment" for all unsold Units. Declarant shall have the right to have the purchaser of each such unsold Unit reimburse Declarant, at the closing of the sale of that Unit, the amount of the Initial Capital Payment so paid by the Declarant as to that Unit. No Initial Capital Payment shall be deemed an advance payment of assessments otherwise payable under these By-Laws.

(3) The Board of Directors shall hold all Initial Capital Payments received by it pursuant to Subsections (1) and (2) of this Section 6.1(e) as a working capital fund

in a segregated account for the use and benefit of the Association (the "Working Capital Fund") and shall withdraw monies from such fund only to pay for necessary unforeseen expenditures of, or additional equipment or services for, the Condominium. During the period of Declarant control, the Declarant may not use any of the working capital funds to defray the Declarant's expenses, reserve contributions or construction costs or to make up any budget deficits.

(g) Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt the annual budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the Common Expense as herein provided whenever the same shall be determined, and in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay the monthly charge established for the previous fiscal period until the new annual or adjusted budget shall have been delivered.

(h) Accounts. All sums collected by the Board of Directors with respect to assessments against the Unit Owners may be commingled into a single fund, but shall be identified and accounted for as to each Unit Owner.

(i) Association's Units. Should the Association be the Owner of a Unit or Units, any assessment which would be otherwise due and payable to the Association by the owner of such Unit or Units, reduced by the amount of income which might be derived from the leasing of such Unit or Units, shall be apportioned and an assessment therefor levied ratably among the Owners of all Units not owned by the Association based upon the respective Percentage Interests appertaining to those Units.

Section 6.2. Payment of Common Expenses, Default. All Unit Owners shall be obligated to pay the Common Expenses assessed by the Board of Directors pursuant to the provisions of Section 6.1 and any assessment not paid within thirty (30) days after it is due shall be in default. Upon default the entire annual assessment attributable to the defaulting Unit Owner shall immediately become due and payable, unless otherwise determined by the Board of Directors. No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to a sale, transfer or other conveyance by him of such Unit. Upon payment to the Association of a reasonable fee established from time to time by the Board of Directors, any Unit Owner shall be entitled to a statement from the Treasurer setting forth the amount of the unpaid assessments against the Unit Owner pursuant to Section 55-79.84 of the Condominium Act. Notwithstanding any other provision of these Bylaws, the lien for any assessment or other charge levied pursuant to these Bylaws on any Unit shall be subordinate to the rights of a Mortgagee. Any Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage or other purchaser at the foreclosure of a Mortgage will not be liable for any assessments or other charges accrued prior to the date the mortgagor is divested of title, and the lien for assessments due and owing prior to such divestment shall terminate upon the sale of a Unit at the foreclosure of a Mortgage. The lien for assessments under the Master Declaration shall be superior to the lien for assessments under this Declaration.

Section 6.3. Collection of Assessments. The Board of Directors shall take prompt action to collect any assessments for Common Expenses due from any Unit Owner which remain

unpaid for more than thirty (30) days from the due date for payment thereof. A late charge and interest in amounts established by the Board of Directors from time to time shall be added to any assessment or installment thereof not paid within ten (10) days after the due date thereof. Such collection shall be pursuant to the provisions of Section 55-79.84 of the Condominium Act.

Section 6.4. Maintenance, Repair, Replacement and Other Common Expenses.

(a) By the Association. The Association shall be responsible for all maintenance, repair and replacement of the Common Elements, including the Limited Common Elements. The Association shall not be responsible for the cleaning and housekeeping of Limited Common Elements. The cost of all such maintenance, repairs and replacements made by the Association to the Common Elements and Limited Common Elements shall be a Common Expense unless (i) in the opinion of not less than two-thirds (2/3) of the Board of Directors, such expense was incurred due to the negligence, misuse or neglect of a Unit Owner, in which event such expense may be charged to the responsible Unit Owner, or (ii) the Unit Owner has agreed, by separate agreement with the Association, to pay for such maintenance, repairs and replacements to Limited Common Elements of a special or unique nature or benefit to the Unit Owner.

(b) By the Unit Owner. Each Unit Owner shall:

(1) keep his Unit and its equipment, appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition;

(2) be responsible for all damage to any other Units or to the Common Elements resulting from his negligence, misuse or from failure to make any of the repairs required by this Section;

(3) perform his responsibility in a manner which shall not unreasonably disturb or interfere with the other Unit Owners;

(4) promptly report to the Board of Directors or the Managing Agent any defect or need for repairs for which the Board of Directors is responsible; and

(5) make all repairs and replacements to his Unit.

(6) be responsible for any insurance deductibles on claims made under policies maintained by the Association pursuant to Article 7 for damage, repair or replacement of Units or other items for which the Unit Owner has responsibility for repair or replacement.

(c) Manner of Repair and Replacement. All repairs and, replacements shall be of first-class quality and shall comply with all of the building codes applicable in the County of James City, Virginia (the "County"). The method of approving payment vouchers for all repairs and replacements which are the responsibility of the Association shall be determined by the Board of Directors. Common Elements shall be restored or repaired to substantially the same condition as existed prior to the damage, allowing for any changes or improvements necessitated

by changes in applicable building codes and changes in the availability, quality, durability, and cost of replacement materials.

Section 6.5. Additions, Alterations, or Improvements by Board of Directors. Except during the Declarant Control Period, whenever in the judgment of the Board of Directors, the Common Elements shall require additions, alterations or improvements costing in excess of TEN THOUSAND DOLLARS (\$10,000.00) or five percent (5%) of the annual budget, whichever is greater, during any period of twelve months, the making of such additions, alterations or improvements shall be approved by a two-thirds majority vote of the Unit Owners (except that no Unit Owner approval shall be required for additions, alterations or improvements required to comply applicable law or governmental regulation, or to correct any deficiency or defect creating a safety or health hazard to occupants). If a two-thirds majority vote of the Unit Owners grant such approval, the Board of Directors shall proceed with such additions, alterations or improvements and shall assess all Unit Owners for the cost thereof as a Common Expense. Any additions, alterations, or improvements costing TEN THOUSAND DOLLARS (\$10,000.00) or less during any period of twelve (12) consecutive months may be made by the Board of Directors without approval of the Unit Owners and the cost thereof shall constitute part of the Common Expenses. Notwithstanding the foregoing, if it is determined by a majority of the members of the Board of Directors that such additions, alterations or improvements are exclusively for the benefit of the Unit Owner or Unit Owners requesting the same, such assessments may be made against such requesting Unit Owners in such proportion as they jointly approve, or if they are unable to agree thereon, in such proportions as may be determined by the Board of Directors.

Section 6.6. Additions, Alterations or Improvements by Unit Owners. No Unit Owner shall make any alteration in or to his Unit except as provided in Section 55-79.68 of the Condominium Act. No Unit Owner shall make any structural addition, alteration or improvement in or to, the exterior of his Unit without first obtaining the prior written consent of the Board of Directors and the Declarant, and the approval of the appropriate and necessary authorities of the County. Unless the foregoing approvals are obtained, no Unit Owner shall install electrical wiring, television or radio antennae or other objects, machines or air conditioning units which may protrude through the walls, roof or windows of the Unit or in any manner alter the appearance of any exterior portion of the Unit. If approval of such plans and specifications is neither granted nor denied by the Board of Directors and the Declarant within thirty (30) days following receipt by the Board of Directors and the Declarant, as the case may be, of the Unit Owner's written request for approval, the Unit Owner making such request shall deliver written notice to the Board of Directors or the Declarant of its failure to act, and if approval is neither granted nor denied within fifteen (15) days thereafter, the plans and specifications shall be deemed to be disapproved. If any application to any governmental authority for a permit to make any such structural addition, alteration or improvement in or to any Unit requires execution by the Association, and provided consent has been given by the Board of Directors, then the application shall be executed on behalf of the Association by the Board of Directors; without, however, incurring any liability on the part of the Board of Directors or Association to any government, municipality, contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having claim for injury to persons or damage to property arising therefrom. The Unit Owner requesting the improvement shall pay the costs of preparing and filing all applications. Any such addition,

alteration or improvement shall also comply with any Development Guidelines (as defined in the Master Declaration) and if applicable New Town Design Guidelines, and the Architectural Review Board of the Master Association and the New Town Design Review Board, if applicable, must approve such additions, alterations or improvements.

The provisions of this Section 6.6 shall not apply to Units owned by the Declarant until deeds conveying title to such Units shall have been recorded. The Declarant shall have the right to make such improvements or alterations without the consent of the Board of Directors and the Board of Directors shall execute any application by the Declarant to any governmental authority which may be required.

Section 6.7. Use of Common Elements. A Unit Owner shall not place or cause to be placed in any of the common areas or common facilities constituting the Common Elements, other than areas which may be designated as the Limited Common Elements appurtenant to the Unit Owner's Unit, any obstructions, furniture, packages or objects of any kind.

Section 6.8. Utility Charges. Each Unit Owner shall be responsible for all charges or assessments for utilities, including but not limited to any water, gas, electricity or sewer charges supplied to each Unit Owner's Unit and separately metered or submetered for that Unit. Any Common Expenses paid or incurred in making available the same off-site amenities or paid subscription television service to some or all of the Unit Owners shall be assessed equally against the Units involved. The cost of utilities serving the Condominium which are not individually metered or submetered to each Unit shall be a Common Expense.

Section 6.9. Restrictions on Use of Units and Common Elements; Rules and Regulations.

(a) Use. Residential Units shall not be used for other than as a residence for individuals living together as a single housekeeping unit, and uses customarily incidental thereto; provided that no Unit may be used as a rooming house, group home, commercial foster home, fraternity or sorority house, or any similar type of lodging, care or treatment facility.

(b) Leases. Residential Units shall not be leased, unless the lease is subject in all respects to the terms and provisions of the Condominium Instruments and the Condominium Act (see Article VIII, Section 8.2 of the Declaration). The Board may adopt regulations requiring the use of a lease form or addendum form approved by the Board for this purpose.

(c) Declarant's Use. Nothing in these Bylaws shall be construed to prohibit the Declarant from using any Unit owned by Declarant for promotional, marketing, sales, settlement or display purposes or from using any appropriate portion of the Common Elements for such purposes.

(d) Additional Use Restrictions.

(1) Nothing shall be done or kept in or upon any Unit, Limited Common Element or the Common Elements which will increase the rate of insurance for the Condominium without the prior written consent of the Board of Directors. No Unit Owner shall

permit anything to be done or kept in his Unit or upon the Common Elements or Limited Common Elements which will result in the cancellation of insurance on the Condominium or any part thereof or which would be in violation of any law, regulation or administrative ruling. No waste will be committed by any Unit Owner in the Common Elements.

(2) No unlawful use shall be made of the Condominium or any part thereof, and all laws, zoning ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations or requirements of any governmental agency requiring any repair or alteration to any portion of the Condominium shall be complied with, by and at the sole expense of the Unit Owner or the Board of Directors, whichever shall have the obligation to maintain or repair such portion of the Condominium. If the latter, then the cost of such compliance shall be a Common Expense, unless at least two thirds (2/3) of the Board of Directors determine that an alteration is required to satisfy the needs of the particular Unit Owner, in which event the cost of the alteration may be charged to the Unit Owner.

(3) Nothing shall be altered or constructed in or removed from the Common Elements without the prior written consent of the Board of Directors.

(4) Nothing shall be done in any Unit or in or on the Common Elements which might impair the structural integrity, or change the structure or external appearance, of any part of any Unit or Limited Common Element without the prior written consent of the Board of Directors.

(5) No noxious or offensive trade or activity shall be carried on within the Condominium or within any Unit, nor shall anything be done thereon or therein which may be or become an annoyance or nuisance to the neighborhood or the other Unit Owners. The Common Elements and Limited Common Elements shall be used only for the furnishing or the services and facilities for which the same are reasonable suited and which are incident to the use and occupancy of the Units.

(6) Except for such signs as may be posted by the Declarant for promotional or marketing purposes, no signs of any character shall be erected, posted, or displayed upon, in, from or about any Unit or Common Element without the prior written approval of the Board of Directors. The foregoing provisions of this paragraph shall not apply to a Mortgagee in possession of a Unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure.

(g) Rules and Regulations. The Board of Directors is hereby authorized to adopt, modify and rescind from time to time rules and regulations that it determines are (a) reasonably necessary to protect the health, safety and welfare of the Unit Owners or (b) otherwise generally in the best interest of the Unit Owners. The Association shall provide copies of the initial Rules and Regulations to all Unit Owners. Changes to Rules and Regulations shall be conspicuously posted prior to the time when the same shall become effective and copies thereof shall be furnished to each Unit Owner upon request.

ARTICLE 7

INSURANCE

Section 7.1. Authority to Purchase.

(a) Except as otherwise provided in Section 7.5, all insurance policies relating to the Condominium shall be purchased by or on behalf of the Association. Neither the Association, any officer or director, a Managing Agent, nor the Declarant shall be liable for failure to obtain any coverages required by this Article to be obtained by or on behalf of the Association if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverages are available only at demonstrably unreasonable cost. Pursuant to Section 55-79.81B of the Condominium Act, the Secretary shall promptly furnish to each Unit Owner written notice of the procurement, subsequent changes in, and the termination of all insurance coverage obtained on behalf of the Association.

(b) Each policy purchased by or on behalf of the Association shall provide, to the extent reasonably available at reasonable rates, that:

(1) The insurer waives any right of subrogation against the Declarant, the Association, the officers and directors, Managing Agent, the Unit Owners and Mortgagees, and their respective agents, employees and invitees;

(2) The policy shall not be cancelled, invalidated or suspended due to the conduct of any officer or director, Unit Owner, Managing Agent, or any invitee, agent, officer, or employee of any of the foregoing without a prior demand in writing to the Board of Directors or the Managing Agent (whichever is applicable) that the defect be cured, followed by failure to cure the defect within sixty (60) days after such demand; and

(3) The policy shall not be cancelled or substantially modified for any reason (including nonpayment of premium) without at least sixty (60) days' prior written notice to the Board of Directors and the Managing Agent and, in the case of physical damage insurance, to all Mortgagees.

(c) The Declarant shall be protected by all policies obtained by or behalf of the Association as a Unit Owner as long as it owns any Unit.

(d) All policies of insurance obtained by Unit Owners or by or on behalf of the Association shall be written by companies licensed to do business in the Commonwealth of Virginia, and assigned an "A" rating or better by Best's Insurance Reports.

(e) All policies of insurance obtained by or on behalf of the Association shall provide that they are payable to the Insurance Trustee (as defined below).

*Page 50 of 62*

Section 7.2. Physical Damage Insurance.

(a) The Board of Directors shall obtain and maintain a blanket, "all-risk" form policy of fire insurance with extended coverage, vandalism, malicious mischief, windstorm, debris removal, cost of demolition and water damage endorsements, insuring the entire Condominium property, excluding furniture, wall coverings, furnishings or other personal property supplied or installed by the Unit Owners, together with all of the utility systems, if any, other than improvements such as curbs, gutters, and other items not normally insured, if any. Such insurance shall cover the interests of the Association, the Board of Directors and all Unit Owners and their Mortgagees, as their interests may appear (subject, however, to the loss payment and adjustment provisions in favor of the Board of Directors as Insurance Trustee contained in Sections 7.6 and 7.7 of this Article), and shall be in an amount that would provide for one hundred percent (100%) of the then current replacement cost of the insured portions, if any, of the Property (exclusive of land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation. Such amount shall be determined annually by the Board of Directors with the assistance of the Managing Agent, the insurance company affording such coverage, and (if the Board so resolves) a qualified appraiser of real estate.

(b) Such policy shall also provide:

(1) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction if a decision is made pursuant to Section 8.5 of these Bylaws not to do so, and, in such event, that the insurer shall pay on the basis of the agreed amount endorsement;

(2) The following endorsements (or equivalent): (i) "no control" (to the effect that coverage shall not be prejudiced by any act or neglect of any Unit Owner, occupant, or other person if such act or neglect is not within the control of the insured, nor by any failure of the insured or any other person to comply with any warranty or condition concerning any portion of the Condominium not controlled by the insured); (ii) "contingent liability from operation of building laws or codes"; (iii) "increased cost of construction" or "condominium replacement cost"; and (iv) "agreed amount" or elimination of coinsurance clause;

(3) That any "no other insurance" clause excludes individual Unit Owners' policies from its operation so that the physical damage policy purchased on behalf of the Association shall be deemed primary coverage and any individual Unit Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained on behalf of the Association hereunder be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees unless otherwise required by law; and

(4) That a duplicate original of such policy, all renewals thereof, and any subpolicies or certificates and endorsements issued thereunder, together with proof of payment of premiums, shall be delivered by the insurer to any Mortgagee whose request therefor is received by the insurer at least thirty (30) days prior to expiration of the then current policy.

*Page 51 of 62*

**Section 7.3. Liability Insurance.** The Board of Directors shall obtain and maintain comprehensive general liability insurance (including without limitation coverage of all officers and directors against libel, slander, false arrest, invasion of privacy, and errors and omissions) and property damage insurance in such limits as the Board may from time to time determine, insuring the Association, each officer and director, the Managing Agent, each Unit Owner, each Mortgagee, and the Declarant against any liability to the public or members of their households arising out of or incident to the ownership or use of the Common Elements. Such insurance shall be issued on a comprehensive liability basis and shall contain: (i) a cross liability endorsement under which the rights of a named insured shall not be prejudiced with respect to his action against another named insured; (ii) hired and nonowned vehicle coverage; (iii) host liquor liability coverage with respect to events sponsored by the Association; (iv) deletion of the normal products exclusion with respect to events sponsored by the Association; and (v) a "severability of interest" endorsement which shall preclude the insurer from denying liability to a Unit Owner because of negligent acts or omissions of the Association, any officer(s), or any other Unit Owner(s). The Board of Directors shall review such limits once a year, but in no event shall such insurance be less than a combined single limit of One Million Dollars (\$1,000,000) covering all claims for bodily injury or property damage arising out of one occurrence.

**Section 7.4. Other Insurance.** The Board of Directors may, in its discretion, obtain and maintain:

(a) Adequate fidelity coverage to protect against dishonest acts on the part of officers, agents and employees of the Association and all others who handle or are responsible for handling funds of the Association. The fidelity bonds shall: (i) name the Association as an obligee; (ii) be written in an amount not less than one-half (1/2) of the total annual assessments for Common Expenses for the then current fiscal year; provided, however, the aggregate amount of the bonds shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the Managing Agent at any given time during the term of the bond, or a sum equal to three (3) months' aggregate assessment on all Units plus reserve funds; and (iii) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression;

(b) Worker's compensation insurance if and to the extent necessary to meet the requirements of law; and

(c) Such other insurance as the Board of Directors may determine is appropriate or as may be required from time to time by resolutions of the Association.

**Section 7.5. Unit Physical Damage Insurance.**

(a) **Policy Requirements.** Each Owner shall, at his own expense, obtain and maintain in full force and effect a condominium unit owner's casualty policy insuring such Unit and any improvements to the Unit in an amount that would provide for one hundred percent (100%) of the then current replacement cost thereof (exclusive of Common Elements and foundations and other items normally excluded from coverage), without deduction for depreciation, including insurance coverage for his personal liability; provided, however, that no

Owner shall acquire or maintain insurance coverage so as to decrease the amount which the Association may realize under any insurance policy, or to cause any insurance coverage in favor of the Association to be brought into contribution with insurance coverage obtained by an Owner. All policies obtained by Owners individually shall contain waivers of subrogation if permitted by the insuring company without additional premium.

(b) Specific Requirements. Such policy shall also provide:

(i) The following endorsements (or equivalent): (i) "no control" (to the effect that coverage shall not be prejudiced by any act or neglect of any person if such act or neglect is not within the control of the insured, nor by any failure of the insured or any other person to comply with any warranty or condition concerning any portion of the condominium not controlled by the insured); (ii) "contingent liability from operation of building laws or codes"; (iii) "increased cost of construction" or "condominium replacement cost"; and (iv) "agreed amount" or elimination of coinsurance clause;

(ii) That any "no other insurance" clause excludes policies obtained by or on behalf of the Association from its operation so that the physical damage insurance on Units obtained by Owners shall be deemed primary coverage with respect to the Units and any policy obtained by or on behalf of the Association shall be deemed excess coverage, and in no event shall the insurance coverage obtained by any Owner be brought into contribution with any policy obtained by or on behalf of the Association unless otherwise required by law; and

(iii) That a duplicate original of each policy, all renewals thereof, and any subpolicies, certificates and endorsements issued thereunder, together with proof of payment of premiums, shall be delivered by the insurer to the Association and any mortgagee whose request therefore is received by the insurer at least thirty (30) days prior to expiration of the then current policy.

(c) Association's Right to Procure Unit Insurance. In the event any Owner shall fail to provide a policy of hazard insurance with respect to a Unit as required in this Section, then the Board of Directors may, but shall not be obligated to, obtain such a policy with respect to the Unit, on behalf of such Owner, and all expenses incurred by the Board of Directors in connection with obtaining such policy shall be repaid by such Owner to the Association promptly upon demand by the Board of Directors. Any expenses incurred by the Association pursuant to this Section shall be charged to the responsible Owner, and such expenses shall be secured by the lien for payment of Common Expenses as provided in this Declaration.

Section 7.6. Insurance Trustee. All physical damage insurance policies purchased by or on behalf of the Association shall be for the benefit of the Association, the Unit Owners, and their Mortgagees, as their respective interests may appear, and shall provide that, with respect to any single loss, if the proceeds thereof exceed \$50,000.00, then all such proceeds shall be paid in trust to a financial institution in the Williamsburg, Virginia, area with trust powers as may be designated by the Board of Directors (which trustee is hereinafter referred to as the "Insurance Trustee"). If such proceeds do not exceed \$50,000.00, then all such proceeds from such insurance shall be paid to the Board of Directors to be applied pursuant to the terms of Article 8

of these By-Laws. The Board of Directors shall enter into an insurance trust agreement with the Insurance Trustee which shall provide that the Insurance Trustee shall not be liable for payment of premiums, the renewal of any insurance policies, the sufficiency of coverage, the form or contents of the policies, the correctness of any amounts received on account of the proceeds of any insurance policies or for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes stated in Article 8 of these Bylaws, for the benefit of the insureds and their beneficiaries thereunder.

Section 7.7. Board of Directors as Agent. The Board of Directors is irrevocably constituted as agent for the Association, each Unit Owner, each Mortgagee, other named insureds and their beneficiaries, and any other holder of a lien or other interest in the Condominium, to adjust and settle all claims arising under insurance policies purchased by the Board of Directors and deliver releases upon the payment of claims. Nothing in this Section shall supersede the rights of any construction lender with a lien on the Condominium.

## ARTICLE 8

### REPAIR AND RECONSTRUCTION AFTER FIRE OR OTHER CASUALTY

Section 8.1. When Repair and Reconstruction are Required. Except as otherwise provided in this Article, upon damage to or destruction of all or any part of the insured Common Elements, as a result of fire or other casualty, the Board of Directors (under the direction of the Insurance Trustee) shall arrange for and supervise the prompt repair and restoration thereof.

#### Section 8.2. Procedure for Reconstruction and Repair.

(a) Cost Estimates. Immediately after a fire or other casualty causing damage to any part of the insured Common Elements, the Board of Directors (under the direction of the Insurance Trustee) shall obtain reliable and detailed estimates of the cost of such repair and restoration to a condition as good as that existing before such casualty or damage. Such costs may also include professional fees and premiums for such bonds as the Insurance Trustee determines necessary.

(b) Assessments. If the proceeds of insurance are not sufficient to defray such estimated costs of reconstruction and repair or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments for such deficiency shall be made against all the Unit Owners in proportion to their respective Percentage Interests.

(c) Encroachments. Section 55-79.60 of the Condominium Act (Easement for Encroachments) shall apply if encroachments upon or in favor of Units are created as a result of such reconstruction or in any event contemplated and set out in Section 55-79.60, and no such encroachment shall give rise to a claim or basis for any action for removal thereof by the Unit Owner upon whose property such encroachment results.

(d) Deductibles. Any insurance deductible under the master casualty policy shall be paid by the Association as a common expense if the cause of the damage to or destruction of any portion of the Condominium originated in or through the Common Elements or an apparatus located within the Common Elements. However, a Unit Owner shall pay such deductible if the cause of any damage to or destruction of any portion of the Condominium originated in or through a Unit or any component thereof as a result of the negligence of the Unit Owner.

Section 8.3. Plans and Specifications. Any reconstruction or repair of the Units and the Common Elements shall be substantially in accordance with the plans and specifications under which the Condominium was originally constructed, regardless of whether such improvements are insured by a policy carried by the Unit Owner or the Association, but subject to changes in applicable building codes and changes in the availability, quality, durability and cost of replacement materials.

Section 8.4. Disbursements of Construction Funds.

(a) Construction Fund. The net proceeds of insurance collected on account of a casualty and the funds received by the Board of Directors or Insurance Trustee from assessments against Unit Owners on account of such casualty shall constitute a construction fund which shall be disbursed by the Insurance Trustee or the Board of Directors, as the case may be, in payment of the cost of reconstruction and repair in the manner set forth in this Article 8, but subject to the provisions of any Mortgages encumbering Units as provided in Article 9 of these Bylaws:

(b) Method of Disbursements.

(i) If the cost of reconstruction or repair is less than Fifty Thousand Dollars (\$50,000), then the construction fund shall be disbursed by the Board of Directors in appropriate progress payments, to any contractors, suppliers, and personnel performing the work or supplying materials or services for such repair, restoration or reconstruction.

(ii) If the estimated cost of reconstruction and repair is Fifty Thousand Dollars (\$50,000) or more, then the construction fund shall if be disbursed in payment of such costs upon approval of an architect qualified to practice in Virginia, approved by the Board of Directors, and employed by the Insurance Trustee to supervise such work, with payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect and other persons who have rendered services or furnished materials in connection with the work and stating that (A) the sums requested by them in payment are justly due and owing and that such sums do not exceed the value of the services and material furnished; (B) there is no other outstanding indebtedness known to the architect for the services and materials described; and (C) the cost as estimated by the architect for the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining after payment of the sum so requested.

When the damage is to Common Elements, Limited Common Elements and Units, the insurance proceeds shall be applied first to the cost of repairing those portions of the Common Elements which enclose and service the Units, then to the cost of repairing the other Common Elements, then to the cost of repairing the Limited Common Elements and thereafter to the cost of repairing the Units.

(c) Surplus. It shall be presumed that the first monies disbursed in payment for the cost of reconstruction and repair shall be from insurance proceeds; and if there is a balance in a construction fund after the payment of all the costs of the reconstruction and repair for which the fund is established, such balance shall be divided among all Unit Owners in proportion to the Percentage Interests appertaining to their respective Units and disbursed in accordance with the priority of interests at law or in equity in each Unit.

(d) Certificate. The Insurance Trustee shall be entitled but not obligated to rely upon a certificate executed by the President or Vice-President, and the Secretary, of the Association certifying:

(i) The name of the payee and the amount to be paid with respect to disbursements from any construction fund held by it or whether surplus funds to be distributed are less than the assessments paid by the Unit Owners; and

(ii) All other matters concerning the holding and disbursing of any construction fund.

The certificate shall be delivered to the Insurance Trustee promptly after request.

Section 8.5. When Construction is Not Required. If two-thirds (2/3) or more of the Condominium is rendered untenable and eighty percent (80%) or more of the Owners vote at a special meeting of the Association (to be held for such purpose within thirty (30) days after such casualty) that the Condominium not be repaired and if the insurance policy covering such damage does not require otherwise, and all Mortgagees agree, then any insurance proceeds received on account of such damage along with the net assets of the Condominium, shall be divided by the Board of Directors or the Insurance Trustee, as the case may be, among all Unit Owners in proportion to the Percentage Interests appertaining to their respective Units, after first paying out of the share of each Unit Owner, to the extent sufficient therefor, the amount of any unpaid liens on that Owner's Unit in the order of priority of such liens.

## ARTICLE 9

### MORTGAGEES AND MORTGAGES

Section 9.1. Notice to Board of Directors. A Unit Owner who encumbers his Unit with a Mortgage shall notify the Board of Directors of the name and address of the Mortgagee and shall file a copy of the note and Mortgage with the Board of Directors certified by the Unit Owner to be true, correct and complete.

Page 56 of 62

**Section 9.2. Notice of Unpaid Assessments for Common Expenses.** The Board of Directors, whenever so requested in writing by a Mortgagee, shall promptly report to the Mortgagee any unpaid assessments for Common Expenses due from, or any other default by, the Unit Owner of the mortgaged Unit.

**Section 9.3. Notice of Default, Casualty and Condemnation.** The Board of Directors, when giving notice to a Unit Owner of a default in paying an assessment for Common Expenses or any other default, shall simultaneously send a copy of the notice to the Mortgagee of such Unit if requested by the Mortgagee in writing given to the Association with the Mortgagee's address for notice purposes. The Board of Directors shall also notify all Mortgagees of any casualty giving rise to a possible claim under any insurance purchased pursuant to Article 7 of these Bylaws, of all actions taken under Section 8.5, and of any proposed taking in condemnation or by eminent domain and action in response thereto.

**Section 9.4. Insurance Proceeds and Condemnation Awards.** No provision of the Condominium Instruments shall be construed to give any Unit Owner, the Association, or any other party, priority over the rights of any Mortgagee in the case of any distribution of insurance proceeds or condemnation awards for losses to or a taking of Units or Common Elements.

**Section 9.5. Notice of Amendment of Declaration or Bylaws.** The Board of Directors shall give notice to all Mortgagees seven (7) days prior to the date on which the Unit Owners materially amend any Condominium Instruments.

**Section 9.6. Notice of Change in Managing Agent.** The Board, of Directors shall give notice to all Mortgagees thirty (30) days prior to undertaking self-management or changing the Managing Agent.

**Section 9.7. Mortgagees' Approvals.** Unless two-thirds (2/3) or more of all Mortgagees (based upon one (1) vote for each mortgaged Unit) shall have given their prior written approval, neither the Association nor any Unit Owner shall:

- (a) Change the Percentage Interest or obligations of any Unit (changes in the Percentage Interests resulting solely from the expansion of the Condominium may be made without the consent of any Mortgagee being required).
- (b) Amend the Condominium Instruments in a manner that would materially adversely affect the security of the Mortgagees.
- (c) Subdivide, partition or relocate the boundaries of the Common Elements (relocation of the boundaries of the Common Elements resulting solely from the expansion of the Condominium may be made without the consent of any Mortgagee being required).
- (d) By act or omission withdraw the submission of the Condominium to the Condominium Act.

**Section 9.8. Other Rights of Mortgagees.** All Mortgagees or their representatives shall be entitled to attend meetings of the Association and shall have the right to speak thereat. The Association shall make current copies of the Condominium Instruments as well as the books, records and financial statements of the Condominium available for inspection by all Mortgagees and Unit Owners during reasonable business hours or at a mutually convenient time and location.

## ARTICLE 10

### COMPLIANCE AND DEFAULT

**Section 10.1. Relief.** As set forth in Section 55-79.53 of the Condominium Act, each Unit Owner shall be governed by, and shall comply with, all of the terms of the Declaration, these Bylaws, the Association's Rules and Regulations, the other Condominium Instruments and any amendments thereof. Default by a Unit Owner shall entitle the Association, acting through its Board of Directors or through the Managing Agent, to the following relief.

(a) **Legal Proceedings.** Failure to comply with any of the foregoing items set out in this section shall be grounds for relief which may include, without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in these Bylaws or any combination thereof, and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Board of Directors, the Managing Agent, or, if appropriate, by any aggrieved Unit Owner.

(b) **Additional Liability.** Each Unit Owner shall be liable for the expense of all maintenance, repair or replacement to the extent rendered necessary by his act, neglect or carelessness or the act, neglect or carelessness of any member of his family or employees, agents, licensees, invitees or lessees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Board of Directors. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of any Unit. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation.

(c) **Costs and Attorneys' Fees.** In any proceeding arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs incurred due to the proceeding, and such reasonable attorneys' fees as may be determined by the court or other appropriate forum in which such proceeding is instituted.

(d) **No Waiver of Rights.** The failure of the Association, the Board of Directors, or of a Unit Owner to enforce any right, provision, covenant, or condition which may be granted by the Declaration or these Bylaws shall not constitute a waiver of the right of the Association, the Board of Directors, or the Unit Owner to enforce such right, provision, covenant, or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors, or any Unit Owner pursuant to any term, provision, covenant or condition of the Declaration, these Bylaws or the Rules and Regulations shall be

deemed to be cumulative, and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such privileges or rights as may be granted to such party by the Declaration, these Bylaws or the Rules and Regulations, or at law or in equity.

(e) Abatement and Enjoinment of Violations by Unit Owners. The violation of the Rules or Regulations or the breach of any provision of these Bylaws, the Declaration or any of the Condominium Instruments as defined in Section 55-79.41 of the Condominium Act shall give the Board of Directors the right, in addition to any other rights set forth in these Bylaws: (1) to enter, except by force or breach of the peace, the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; or (2) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

Section 10.2. Lien for Contributions. Any sum assessed by the Association for the share of the Common Expenses chargeable to any Unit and remaining unpaid for a period of thirty (30) days or longer after the Association has delivered written notice of the amount of such assessment shall constitute a lien on such Unit and shall be enforced pursuant to the provisions of Section 55-79.84 of the Condominium Act.

Section 10.3. Subordination and Mortgage Protection. Notwithstanding anything to the contrary herein, the lien of any assessment levied pursuant to these Bylaws upon any Unit (and any penalties, interest on assessments, late charges or the like) shall be subordinate to, and shall in no way affect the rights of the holder of a Mortgage recorded prior to the perfection of the lien for assessments; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Unit pursuant to foreclosure, or any proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the purchaser of the Unit at such sale from liability for any assessments thereafter becoming due nor from the lien of any such subsequent assessment, which lien shall have the same effect and be enforced in the same manner as provided herein.

## ARTICLE 11

### MISCELLANEOUS

Section 11.1. Notices. All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by e-mail or by registered or certified mail, return receipt requested, first-class postage prepaid or otherwise as may be permitted by the Condominium Act:

(a) If to a Unit Owner, at the address or e-mail address which the Unit Owner shall designate in writing and file with the Secretary of the Association, or if no such address is designated, at the address of the Unit of such Unit Owner; or

(b) If to the Association, the Board of Directors, or the Managing Agent, at the principal office of the Managing Agent if there be one and if there is none, at the residence of the President of the Unit Owners Association and the members of the Board of Directors or at such other address as shall be designated by the notice in writing to the Unit Owners pursuant to this section.

Section 11.2. Invalidity. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws.

Section 11.3. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws, or the intent of any provision thereof.

Section 11.4. Gender. The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders, and vice versa and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

Section 11.5. Conflict. Should the Association's Declaration, Bylaws or Rules and Regulations conflict with those of the Master Association, the Master Association's Declaration, Bylaws and Rules and Regulation will govern.

## ARTICLE 12

### AMENDMENTS TO BYLAWS

#### Section 12.1. Amendments.

(a) Except as otherwise provided in this section, these Bylaws may be modified or amended:

(1) By a vote of the Unit Owner's representing at least eighty percent (80%) of the Units in the Condominium at any regular or special meeting, provided that notice of the proposed amendment shall have been given to each Unit Owner at least twenty-one (21) days in advance of such meeting; or

(2) Pursuant to a written instrument duly executed by the Unit Owner's representing at least eighty percent (80%) of the Units in the Condominium.

(b) During the Declarant Control Period, these Bylaws may be modified or amended by the Declarant without any approval of the Unit Owners being required to (i) make technical amendments which do not materially alter the rights of the Unit Owners, and (ii) comply with the requirements, as modified from time to time, of the Federal Home Loan Mortgage Association, the Federal National Mortgage Association, or the Veterans' Administration, including, without limitation, insurance and maintenance requirements with

respect to the condominium. Amendments to these Bylaws resulting solely from or required in connection with the expansion of the Condominium may be made by the Declarant as set forth in the Declaration, without any approval of the Unit Owners being required. Each Unit Owner shall be given written notice of all amendments made pursuant to this subsection within thirty (30) days after the date such amendment is recorded.

Section 12.2. Recording. A modification or amendment of these Bylaws shall become effective only if such modification or amendment is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and James City County, Virginia. A modification or amendment once adopted and recorded shall then constitute part of the official Bylaws of the Condominium, and all Unit Owners shall be bound to abide by such modification or amendment.

Section 12.3. Conflicts. No modification or amendment of these Bylaws may be adopted which shall be inconsistent with the provisions of the Condominium Act.

Section 12.4. Restrictions on Amendments.

(a) Until the expiration of the Declarant Control Period, the following sections of these Bylaws may not be amended without the consent in writing of the Declarant: (i) Section 2.2, (ii) Section 2.8, (iii) Section 3. 1, and (iv) Section 12.4 of this Article. No such amendment shall increase the Declarant Control Period beyond that provided for in Section 55-79.74 of the Condominium Act.

(b) No amendment in the Percentage Interest appertaining to each Unit or amendment that would change unit boundaries or amendment to the basis for sharing Common Expenses and other apportionment of assessments which may be levied by the Association in accordance with the provisions hereof, or amendment to the basis of ownership of any reserve funds (other than such amendments resulting solely from the expansion of the Condominium, which may be made by the Declarant without any other consent required) shall be made without the prior written consent of all the Unit Owners and two-thirds (2/3) or more of all of the Mortgagees (based upon one (1) vote for each mortgaged Unit).

(c) No alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of a Mortgagee shall be made without prior written consent of two-thirds (2/3) or more of all of the Mortgagees (based upon one (1) vote for each mortgaged Unit).

(d) During the Declarant Control Period, no alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of the Declarant shall be made without the prior written consent of the Declarant.

(e) No alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of the Owners of the Commercial Units shall be made without the prior written consent of a majority of the Owners of the Commercial Units.

(f) No amendment of the Bylaws affecting the obligations, responsibilities or rights with respect to the Master Association or under the Master Declaration may be made without the prior written approval of the Master Association.

1242652v5

5 Large/Small Plat(s) Recorded  
herewith as # 070004489

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 12-22-09  
at 3:23 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

Page 62 of 62

Tax Map No.: A620296528

Prepared by:  
Williams, Mullen, Clark & Dobbins  
P. O. Box 1320  
Richmond, VA 23218-1320

070006051

**FIRST AMENDMENT TO BYLAWS  
OF  
BENNINGTON ON THE PARK, A CONDOMINIUM**

THIS FIRST AMENDMENT TO THE BYLAWS OF BENNINGTON ON THE PARK, A CONDOMINIUM (this "Amendment") dated as of the 20th day of February, 2007, by **GRANITE MOUNTAIN, LLC**, a Virginia limited liability company ("Declarant"), recites and provides:

Recitals.

1. By the Declaration of Bennington On The Park, A Condominium dated February 2, 2007 (the "Declaration"), recorded February 15, 2007, in the Clerk's Office of the Circuit Court for the City of Williamsburg and James City County, Virginia (the "Clerk's Office"), as Instrument Number 070004489, Declarant submitted certain property located in the James City County, Virginia, to the provisions of the Virginia Condominium Act, Va. Code Section 55-79.39 *et seq.* (the Condominium Act), thereby establishing a condominium development known as Bennington On The Park, A Condominium (the Condominium).

2. Pursuant to Section 12.1(b) of the Bylaws of the Condominium and Section 55-79.71F of the Condominium Act, Declarant has the right to unilaterally execute and record a corrective amendment to the condominium instruments to correct an inconsistency in the documents or clarify an ambiguity in the condominium instruments with respect to an objectively verifiable fact.

3. Section 6.9(b) of the Bylaws incorrectly refers to the leasing section of the Declaration as "Article VIII, Section 8.2 of the Declaration" when the proper reference should have been to "Article VI, Section 6.2 of the Declaration". The purpose of this Amendment is to correct the inconsistency.

4. Each capitalized term used, and not otherwise defined, in this Amendment shall have the meaning given it in Section 55-79.41 of the Code of Virginia 1950, as amended, or unless the context otherwise requires. In the case of any inconsistency in or conflict among the provisions of the Bylaws and this Amendment, the provisions of this Amendment shall govern. All references hereinafter made to Articles and to Paragraphs shall be to Articles and Paragraphs of the Bylaws.

Amendment to the Bylaws.

1. Amendment to Section 6.9(b) of the Bylaws. The reference in Section 6.9(b) of the Bylaws to "Article VIII, Section 8.2 of the Declaration" is hereby amended to read "Article VI, Section 6.2 of the Declaration".

2. Ratification. Except as expressly revised by this First Amendment to the Bylaws, the terms and provisions of the Bylaws are hereby ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant has caused this Amendment to be executed as of the 20<sup>th</sup> day of February, 2007.

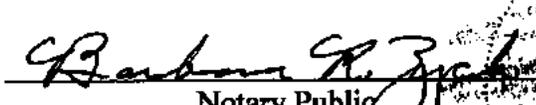
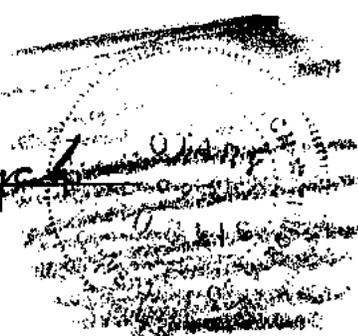
GRANITE MOUNTAIN, LLC,  
a Virginia limited liability company

By:   
Manager

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

I, the undersigned, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Andrew M. Profico, Managing Member of Granite Mountain, LLC, a Virginia limited liability company, whose name as such is signed to the foregoing instrument, has acknowledged the same before me in the County of JAMES City, Virginia, on behalf of the limited liability company.

GIVEN under my hand and seal this 20<sup>th</sup> day of February, 2007.

  
Notary Public 

1419908v1

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 1 March 07  
at 3:10 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B. Woolridge Clerk

Tax Map No.: A620296528

Prepared by:

Spirn, Tarley, Robinson & Tarley, P.L.L.C.

P. O. Box 584

Williamsburg, VA 23217-0584

070 014019

**SECOND AMENDMENT TO BYLAWS  
OF  
BENNINGTON ON THE PARK, A CONDOMINIUM**

THIS SECOND AMENDMENT TO THE BYLAWS OF BENNINGTON ON THE PARK, A CONDOMINIUM (this "Amendment") dated as of the 10th day of April, 2007, by GRANITE MOUNTAIN, LLC, a Virginia limited liability company ("Declarant"), recites and provides:

**Recitals.**

1. By the Declaration of Bennington On The Park, A Condominium dated February 2, 2007 (the "Declaration"), recorded February 15, 2007, in the Clerk's Office of the Circuit Court for the City of Williamsburg and James City County, Virginia (the "Clerk's Office"), as Instrument Number 070004489, Declarant submitted certain property located in the James City County, Virginia, to the provisions of the Virginia Condominium Act, Va. Code Section 55-79.39 et seq. (the Condominium Act), thereby establishing a condominium development known as Bennington On The Park, A Condominium (the Condominium).

2. Pursuant to Section 12.1(b) of the Bylaws of the Condominium and Section 55-79.71F of the Condominium Act, Declarant has the right to modify or amended the bylaws without any approval of the Unit Owners being required to (i) make technical amendments which do not materially alter the rights of the Unit Owners, and (ii) comply with the requirements, as modified from time to time, of the Federal Home Loan Mortgage Association, the Federal National Mortgage Association, or the Veterans' Administration, including, without limitation, insurance and maintenance requirements with respect to the condominium.

3. Article 6.1. (f) is amended to read as follows:

"(f) Initial Capital Payment.

(1) Upon taking office, the first Board of Directors elected or designated pursuant to these By-Laws shall determine the budget, as defined in this Section, for the period commencing thirty days after such election and ending on the last day of the fiscal year in which such election occurs. Assessments shall be levied and become a lien against the Unit Owners during such period as provided in paragraph (c) of this Section.

(2) Declarant, as the agent of the Board of Directors or any other such agent duly designated by the Board of Directors, will collect from each initial and subsequent purchaser at the time of settlement on sale of each unit as "Initial Capital Payment" equivalent to twice the sum of the estimated monthly assessment for Common Expenses for such purchaser's Unit plus One Thousand Dollars (\$1,000.00). Declarant or any duly designated agent will deliver

*Amendment to the Bylaws.  
Bennington on the Park.  
A Condominium April 10, 2007*

the funds so collected to the Board of Directors. Within thirty days after the expiration of the period of declarant control, Declarant shall pay to the Board of Directors an amount equal to the "Initial Capital Payment" for all unsold Units. Declarant shall have the right to have the purchaser of each such unsold Unit reimburse Declarant, at the closing of the sale of that Unit, the amount of the Initial Capital Payment so paid by the Declarant as to that Unit. No Initial Capital Payment shall be deemed an advance payment of assessments otherwise payable under these By-Laws.

(3) The Board of Directors shall hold all Initial Capital Payments received by it pursuant to Subsections (1) and (2) of this Section 6.1(e) as a working capital fund in a segregated account for the use and benefit of the Association (the "Working Capital Fund") and shall withdraw monies from such fund only to pay for necessary unforeseen expenditures of, or additional equipment or services for, the Condominium. During the period of Declarant control, the Declarant may not use any of the working capital funds to defray the Declarant's expenses, reserve contributions or construction costs or to make up any budget deficits."

4. Article 7.1. (c) is amended to read as follows:

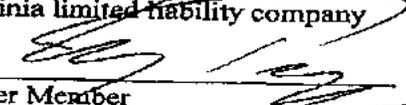
"(c) The Declarant shall be protected by all policies obtained by or behalf of the Association as a Unit Owner as long as it owns any Unit; and shall be named as a loss payee thereafter for so long as the Declarant shall remain authorized to do business within the Commonwealth of Virginia. A copy of these policies shall be provided by the board of directors to the Declarant at each renewal or modification of said policies."

5. Each capitalized term used, and not otherwise defined, in this Amendment shall have the meaning given it in Section 55-79.41 of the Code of Virginia 1950, as amended, or unless the context otherwise requires. In the case of any inconsistency in or conflict among the provisions of the Bylaws and this Amendment, the provisions of this Amendment shall govern. All references hereinafter made to Articles and to Paragraphs shall be to Articles and Paragraphs of the Bylaws.

6. Ratification. Except as expressly revised by this First Amendment to the Bylaws, the terms and provisions of the Bylaws are hereby ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, Declarant has caused this Amendment to be executed as of the 10<sup>th</sup> day of April, 2007.

GRANITE MOUNTAIN, LLC  
A Virginia limited liability company

By   
Manager Member

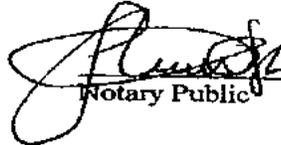
*Amendment to the Bylaws,  
Bennington on the Park,  
A Condominium April 10, 2007*

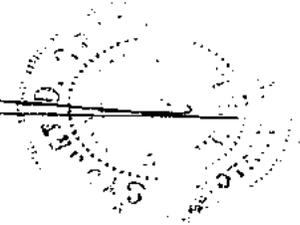
COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

I, the undersigned, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Andrew M. Piplico, Manager Member of Granite Mountain, LLC, a Virginia limited liability company, whose name as such is signed to the foregoing instrument, has acknowledged the same before me in the County of James City, Virginia, on behalf of the limited liability company.

GIVEN under my hand and seal this 10<sup>th</sup> day of April, 2007.

My Commission Expires: 9/30/2008

  
Notary Public



VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 14<sup>th</sup> May 07  
at 12:29 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY Betsy B. Woolridge Clerk

Tax Parcel Nos: 781-653-1943-00000, 779-654-8629-00000 & 782-653-0642-00000

Prepared by:  
 Hugh T. Harrison II (VSB #20566)  
 Williams, Mullen, Clark & Dobbins  
 P. O. Box 1320  
 Richmond, VA 23218-1320

**AMENDMENT TO THE DECLARATION AND BYLAWS  
 OF  
 BENNINGTON ON THE PARK, A CONDOMINIUM**

THIS AMENDMENT TO THE DECLARATION AND BYLAWS OF BENNINGTON ON THE PARK, A CONDOMINIUM (this "Amendment") dated as of the 21<sup>st</sup> day of November, 2014 by **GRANITE MOUNTAIN, LLC**, a Virginia limited liability company ("Declarant"), and the principal officer of **BENNINGTON ON THE PARK CONDOMINIUM UNIT OWNERS ASSOCIATION**, a Virginia non-stock corporation (the "Association"), on behalf of Unit Owners possessing not less than eighty percent (80%) of the votes in the Association (the "Requisite Majority") recites and provides:

Recitals.

1. By the Declaration of Bennington on the Park, a Condominium dated February 2, 2007 (the "Declaration"), recorded February 15, 2007, in the Clerk's Office of the Circuit Court of James City County, Virginia (the "Clerk's Office"), as Instrument # 070004489, Declarant submitted certain property located in the James City County, Virginia, to the provisions of the Virginia Condominium Act, Va. Code Section 55-79.39 *et seq.* (the "Condominium Act"), thereby establishing an expandable condominium development known as Bennington on the Park, a Condominium (the "Condominium").
2. Declarant desires to subdivide the unit formerly known as the Commercial Unit, as further defined and described in the Declaration and the exhibits attached thereto, and Declarant has made an application to the President of the Association to (i) subdivide the Commercial Unit, (ii) assign new identifying numbers to the new units created by the subdivision of the Commercial Unit, and (iii) and allocate to the new units all of the undivided interest in the common elements, the aggregate number of votes in the Association and the proportionate liability for common expenses allocated appertaining to the Commercial Unit.
3. Article II, Section 2.5 subdivision of Units permits the subdivision of Units subject to compliance with the provisions therefore in Sections 6.6 and 9.7 of the Bylaws and Section 55-79.70 of the Condominium Act; provided, however, the prior written consent of any Mortgagee(s) of the Units involved shall be required to permit such relocation. There is no Mortgagee of the Commercial Unit and, hence, written consent to the relocation of the unit boundaries from a mortgagee is not required.
4. Declarant desires to convert the Commercial Unit to residential uses and to make certain other revisions to the Declaration and Bylaws of the Condominium.

5. Section 55-79.71D of the Condominium Act provides that an amendment to the condominium instruments shall be effective when a copy of the Amendment is recorded, together with a Certification signed by the principal officer of the Association that the Requisite Majority of Unit Owners approved the Amendment.

6. The President of the Association executes this Amendment for the purpose of certifying that the Requisite Majority of Unit Owners has approved the Amendment at a duly called special meeting of the Unit Owners.

Amendment to the Declaration and Bylaws.

NOW, THEREFORE, in accordance with the terms of the Condominium Act, the Declaration and the Bylaws, the Declaration and Bylaws of Bennington on the Park, a Condominium are hereby amended as follows:

1. Subdivision of Commercial Unit. The Commercial Unit is hereby subdivided by agreement of Declarant, the owner of the unit, to create Units 1, 2, 3, 4 and 5. The vertical boundaries of such units shall be as more particularly shown and described on the Plans prepared by Landtech Resources, Inc., dated March 24, 2014, as amended, and identified as "Condominium Plan Bennington on the Park, A Condominium, New Town, Section 2 & 4, Block 8, Parcel E, James City County, Virginia, Sheet 1 of 2 and Sheet 2 of 2", copies of which are attached hereto as Exhibit C, recorded herewith are hereby substituted for the Plans identified as "Condominium Plan Bennington on the Park, A Condominium, New Town, Section 2 & 4, Block 8, Parcel E, James City County, Virginia, Sheet 2 of 5", which was attached to and recorded with the Declaration which were attached to and recorded with the Declaration so as to show the revised First Floor Plan, specifically including new dimensions and boundaries of Units 1, 2, 3, 4 and 5. The horizontal boundaries of the Units in the Condominium shall remain unchanged and shall be as shown on the Plans attached hereto.
2. Reallocation of Percentage Interests. The Schedule of Percentage Interests which is attached hereto as a part hereof, marked Amended Exhibit D and recorded herewith, is substituted for the schedule showing the area, Par Value and Percentage Interests allocated to each Unit which is referred to in Article IV and attached as Exhibit D to the Declaration, so that area, Par Value and Percentage Interest appurtenant to each Unit, including Units 1, 2, 3, 4, and 5, in and to the Common Elements and Common Expenses to which each Unit is entitled shall be as shown on such Schedule of Percentage Interests attached hereto.
3. Reallocation of Voting Interest Applicable to the Commercial Unit. In accordance with the provisions of Section 55-79.70D of the Condominium Act, the Bylaws are hereby amended to reflect that the one (1) vote allocated to the Commercial Unit is hereby allocated equally among Units 1, 2, 3, 4 and 5 and that each such Unit shall have a one-fifth (1/5<sup>th</sup>) vote in all matters of the Association.
4. Use of Units 1, 2, 3, 4 and 5. It is expressly understood and agreed that Units 1, 2, 3, 4 and 5, the units comprising the space formerly known as the Commercial Unit, shall be

deemed to be "Residential Units", as defined in the Declaration and each may be used for private residential purposes.

5. Consent of Unit Owner. Declarant, as the owner of the Commercial Unit, consents to the relocation of the boundaries between such Unit.

6. Consent of the Association. The President of the Association hereby executes this Amendment to evidence the consent of the Association to the relocation of the boundaries and the reallocation of the Percentage Interests and votes applicable to the Commercial Unit. The recordation of this Amendment shall be conclusive evidence that the relocation of the boundaries hereby effected does not violate any restrictions or limitations contained in the condominium instruments for the Condominium and that the reallocation of Percentage Interests is reasonable.

7. Amendment to Article VI, Section 6.2 of the Declaration. Article VI, Section 6.2 of the Declaration is hereby amended to read as follows:

6.2 Leasing. The Declarant and the Association shall have the right to restrict the number of Residential Units that may be leased so that seventy percent (70%), or a greater percentage as may be required by then current Fannie Mae and Freddie Mac regulations, of the Residential Units shall be owner-occupied at all times. The Association shall maintain records on such Residential Unit uses. No Residential Unit shall be rented for transient or hotel purposes or for any period less than six (6) months, without the prior written approval of the Board of Directors. Furthermore, no portion of a Unit less than an entire Residential Unit shall be rented. No Residential Unit Owner shall lease a Residential Unit other than on a written form of lease: (i) requiring the lessor to provide a copy of the Condominium Instruments to the lessee and obtain a written acknowledgement of receipt of the Condominium Instruments stating that the lessor and lessee remain responsible for compliance under the Condominium Instruments; (ii) requiring lessee to comply with the Condominium Instruments and such rules and regulations as are promulgated by the Board of Directors from time to time; (iii) providing that failure to so comply constitutes a default under the lease; and (iv) providing that the Board of Directors shall have the power to terminate the lease or bring summary proceedings to evict the lessee in the name of the Unit Owner/lessor upon any such default which is not cured by either the lessee or the Unit Owner/lessor within thirty (30) days after the delivery of written notice of such default to each of them. The Board of Directors may require a standard form lease for use by Unit Owners. Each Unit Owner shall, promptly following the execution of a lease of a Residential Unit, forward a copy thereof to the Board of Directors certified by the Unit Owner as true, correct and complete. Effective July 1, 2014, the Board of Directors may limit the period of time, but not less than six (6) months, that a Unit Owner may lease its Unit. The provisions of this Section shall not apply to Declarant or to any Mortgagee who comes into possession of the Unit by reason of any remedies provided by law or in any Mortgage, or as a result of foreclosure or judicial sale, or as a result of any proceeding, arrangement, or deed in lieu of foreclosure.

8. Amendment to Article VIII of the Declaration. Article VIII of the Declaration is hereby amended to read as follows:

Declarant shall have the right, without the consent of any other Unit Owner or, except as provided below, any Mortgagee of the Declarant or of any Unit Owner, to convert all or any portions of any Convertible Space into one or more Residential Units and/or Common Elements, including without limitation Limited Common Elements, pursuant Sections 55-79.58(d) and 55-79.62 of the Act and to file any amendments to this Declaration and Exhibits hereto in connection therewith. Any Convertible Space, or portion or portions thereof, not so converted shall be treated for all purposes as a single Unit until and unless it is so converted, and the provisions of the Act and this Declaration shall be deemed applicable to any such space, or portion or portions thereof, as though the same were a Unit.

9. Deletion of Article XII of the Declaration. Article XII - Commercial Units is hereby deleted in its entirety.

10. Amendment to Article 3, Section 3.1 of the Bylaws. Article 3, Section 3.1 of the Bylaws is hereby amended to read as follows:

Section 3.1. Number and Qualification. The affairs of the Condominium shall be governed by a Board of Directors. The Board of Directors shall consist of five (5) persons, who shall be elected by a vote of the Unit Owners. For two (2) years after the Declarant Control Period, the Declarant may appoint an individual who shall be entitled to notice of all meetings of the Board of Directors, and who may speak at the meetings but cannot vote.

11. Amendment to Article 3, Section 3.4 of the Bylaws. Article 3, Section 3.4 of the Bylaws is hereby amended to read as follows:

Section 3.4. Election and Term of Office; Election of Directors by the Unit Owners. At the first meeting of the Association following the end of the Declarant Control Period, the term of office of two (2) members of the Board of Directors elected by the Owners of the Residential Units shall be fixed at three (3) years, the term of office of two (2) members of the Board of Directors shall be fixed at two (2) years, and the term of office of one (1) member of the Board of Directors shall be fixed at one (1) year. The first Board of Directors to be elected by the Owners of the Residential Units shall be elected simultaneously with one ballot or election. The two people receiving the highest number of votes shall be elected for the three (3) year terms. The two people receiving the third and fourth highest number of votes shall be elected for the two (2) year terms. The person receiving the fifth highest number of votes shall be elected for the one (1) year term. In the event of a tie in the balloting, persons shall be designated among the classes of directors by drawing lots. At the expiration of the initial term of office

of each respective member of the Board of Directors, that member's successor shall be elected to serve for a term of three (3) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

12. Amendment to Article 3, Section 3.6 of the Bylaws. Article 3, Section 3.6 of the Bylaws is hereby amended by deleting the last sentence thereof in its entirety.

13. Amendment to Article 10, Section 10.1(e) of the Bylaws. Article 10, Section 10.1(e) of the Bylaws is hereby amended to read as follows:

(e) Abatement and Enjoinment of Violations by Unit Owners; Suspension of Services; Assessment of Charges for Violations. The violation of the Rules or Regulations or the breach of any provision of these Bylaws, the Declaration or any of the Condominium Instruments as defined in Section 55-79.41 of the Condominium Act shall give the Board of Directors the right, in addition to any other rights set forth in these Bylaws: (1) to enter, except by force or breach of the peace, the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; or (2) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; (3) suspend a unit owner's right to use facilities or services, including utility services, provided directly through the unit owners' association for nonpayment of assessments which are more than 60 days past due, to the extent that access to the unit through the common elements is not precluded and provided that such suspension shall not endanger the health, safety, or property of any unit owner, tenant, or occupant; and (4) assess charges against any unit owner for any violation of the condominium instruments or of the rules or regulations promulgated pursuant thereto for which such unit owner or his family members, tenants, guests or other invitees are responsible to the maximum extent permitted by Section 55-79.80:2 of the Condominium Act.

14. Certification President of the Unit Owners Association. The President of the Unit Owners Association executes this Amendment as the purpose of certifying that the Requisite Majority of the Unit Owners has executed the Ratification of Unit Owners approving the Amendment.

15. Ratification. Except as expressly modified hereby, the Declaration is hereby ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed as of the date first above written.

*[Signature Page to Follow]*

GRANITE MOUNTAIN, LLC  
a Virginia limited liability company

By: [Signature]  
Manager

COMMONWEALTH OF VIRGINIA  
COUNTY OF James City to-wit:

The foregoing instrument was acknowledged before me, Denise Jacqueline Kent  
Notary Public, this 21 day of November, 2014, by Andy Piplico, who presented  
valid identification and voluntarily acknowledged this instrument as Manager of GRANITE  
MOUNTAIN, LLC, a Virginia limited liability company, on behalf of the company.



Denise Jacqueline Kent  
Notary Public  
Registration Number: 315140  
My commission expires: 4/30/2016  
Notary Seal

BENNINGTON ON THE PARK CONDOMINIUM UNIT  
OWNERS ASSOCIATION, a Virginia corporation

By: Marshall N. Warner  
President

COMMONWEALTH OF VIRGINIA

COUNTY OF James City to-wit: The foregoing instrument was acknowledged before me  
this 21 day of November, 2014, by Marshall N. Warner, who is personally known  
to me and acknowledged this instrument as President of Bennington on the Park Condominium  
Unit Owners Association, a Virginia corporation, on its behalf.

My commission expires: 4/30/2016



Denise Jacqueline Kent  
Notary Public  
Registration No. 315140  
Notary Seal

**EXHIBIT C**

**PLANS**

BENNINGTON ON THE PARK, A CONDOMINIUM

SUBDIVISION OF THE COMMERCIAL UNIT

PLANS: Plans prepared by Landtech Resources, Inc., dated March 24, 2014, as amended, and identified as "CONDOMINIUM PLAN BENNINGTON ON THE PARK, A CONDOMINIUM, NEW TOWN, SECTION 2 & 4, BLOCK 8, PARCEL E, JAMES CITY COUNTY, VIRGINIA, SHEET 1 OF 2 AND SHEET 2 OF 2", copies of which are attached hereto as Exhibit C, recorded herewith are hereby substituted for the Plans identified as "Condominium Plan Bennington on the Park, A Condominium, New Town, Section 2 & 4, Block 8, Parcel E, James City County, Virginia, Sheet 2 of 5", which was attached to and recorded with the Declaration

**AMENDED EXHIBIT D**  
**PERCENTAGE INTERESTS**  
**BENNINGTON ON THE PARK, A CONDOMINIUM**

<b>Unit Number</b>	<b>Square Footage</b>	<b>Unit Type</b>	<b>Par Value</b>	<b>Percentage Interest</b>
1	439	-	0.28	0.576
2	479	-	0.28	0.576
3	572	-	0.28	0.576
4	544	-	0.28	0.576
5	549	-	0.28	0.576
Convertible Space	496	-		0.89
101	1541	D	1.4	2.88
102	1385	B	1.2	2.46
103	1385	B	1.2	2.46
104	1384	B	1.2	2.46
105	1374	C	1.2	2.46
106	1383	B	1.2	2.46
107	932	A	1.0	2.04
201	1541	D	1.4	2.88
202	1385	B	1.2	2.46
203	1385	B	1.2	2.46
204	1374	C	1.2	2.46
205	1385	B	1.2	2.46
206	1442	E	1.2	2.46
207	1285	F	1.2	2.46
208	1385	B	1.2	2.46
209	1385	B	1.2	2.46
210	932	G	1.0	2.04
211	932	G	1.0	2.04
301	1541	D	1.4	2.88
302	1385	B	1.2	2.46
303	1385	B	1.2	2.46
304	1374	C	1.2	2.46
305	1385	B	1.2	2.46
306	1442	E	1.2	2.46
307	1285	F	1.2	2.46
308	1385	B	1.2	2.46
309	1385	B	1.2	2.46
310	932	G	1.0	2.04
311	932	G	1.0	2.04
401	1302	H	1.2	2.46
402	1320	I	1.2	2.46

403	1320	I	1.2	2.46
404	1320	I	1.2	2.46
405	1320	I	1.2	2.46
406	1442	E	1.2	2.46
407	1285	F	1.2	2.46
408	1320	I	1.2	2.46
409	1320	I	1.2	2.46
410	909	J	1.0	2.04
411	909	J	1.0	2.04
<b>TOTAL</b>	<b>55,493</b>		<b>128.00</b>	<b>100%</b>

The actual total % interest may not equal 100% due to rounding. However, for the purposes of this exhibit the total is deemed to equal 100%.

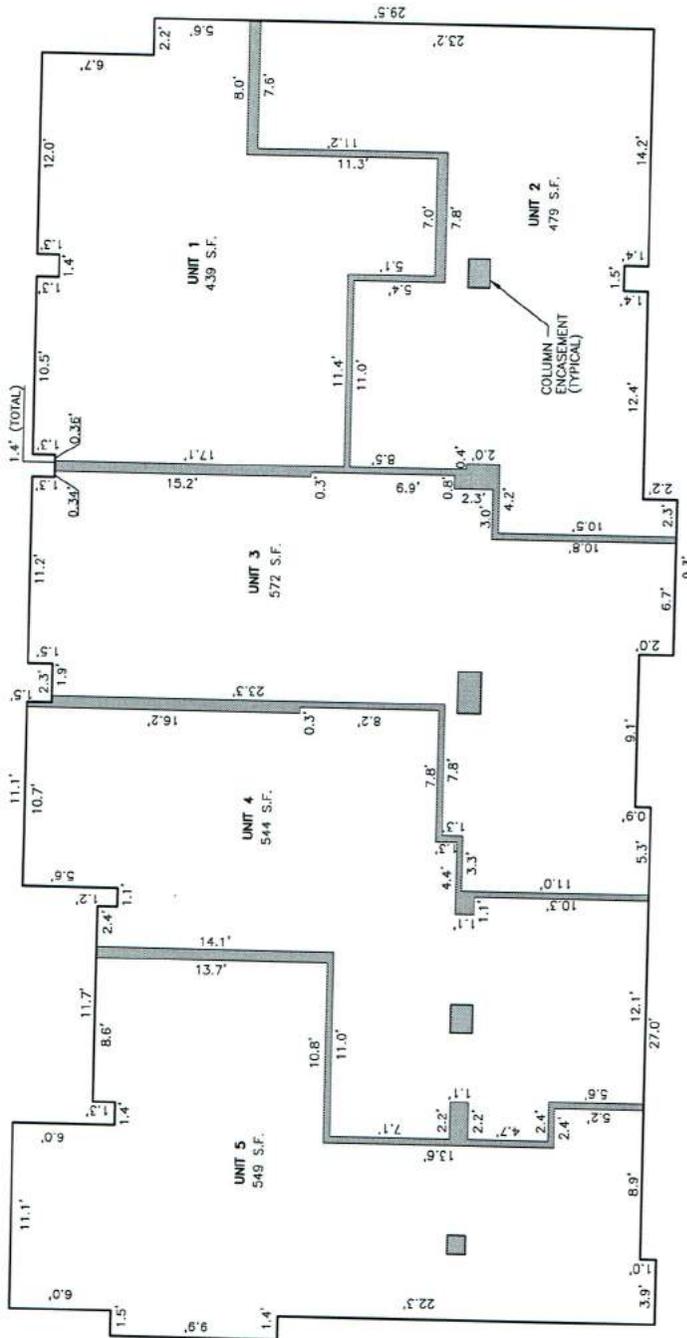
**PLAT ATTACHED**

**VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY**  
 This document was admitted to record on 11-21-2014  
 at 3:16 AM/PM. The taxes imposed by Virginia Code  
 Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX                      LOCAL TAX                      ADDITIONAL TAX  
 \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

TESTE: BETSY B. WOOLRIDGE, CLERK  
 BY: Betsy B. Woolridge Clerk





UNITS 1-5 DETAIL

**LEGEND**

COMMON AREA



**SURVEYOR'S CERTIFICATE**  
 I CERTIFY THAT THESE PLANS ARE ACCURATE AND COMPLY WITH THE PROVISIONS  
 OF SECTION 55-79.58(B) OF THE CODE OF VIRGINIA 1950 AS AMENDED  
 AND THAT ALL UNITS DEPICTED HEREON HAVE BEEN SUBSTANTIALLY COMPLETED.

*Matthew H. Connolly*  
 MATTHEW H. CONNOLLY

03/26/2014  
 DATE



CONDOMINIUM PLAN  
**BENNINGTON ON THE PARK**  
 A CONDOMINIUM  
 NEW TOWN, SECTION 2 & 4  
 BLOCK 8, PARCEL E  
 JAMES CITY COUNTY, VIRGINIA  
 DATE: 03-24-2014 JOB# 05-838  
 SHEET 2 OF 2

**LRI**  
**LANDTECH**  
**RESOURCES, INC.**  
 ENGINEERING • SURVEYING • GPS  
 3925 Midlands Road Williamsburg, VA 23188  
 Ph: (757) 565-1677 Fax: (757) 565-0782  
 web: landtechresources.com

140019452

Tax Parcel Nos: 781-653-1943-00000, 779-654-8629-00000 & 782-653-0642-00000

Prepared by:  
Hugh T. Harrison II (VSB #20566)  
Williams, Mullen, Clark & Dobbins  
P. O. Box 1320  
Richmond, VA 23218-1320

**AMENDMENT TO THE DECLARATION  
OF  
BENNINGTON ON THE PARK, A CONDOMINIUM**

THIS AMENDMENT TO THE DECLARATION OF BENNINGTON ON THE PARK, A CONDOMINIUM (this "Amendment") is made as of the 21<sup>st</sup> day of November, 2014 by **GRANITE MOUNTAIN, LLC**, a Virginia limited liability company ("Declarant"), as Declarant.

Recitals.

1. By the Declaration of Bennington on the Park, a Condominium dated February 2, 2007 (the "Declaration"), recorded February 15, 2007, in the Clerk's Office of the Circuit Court of James City County, Virginia (the "Clerk's Office"), as Instrument # 070004489, Declarant submitted certain property located in the James City County, Virginia, to the provisions of the Virginia Condominium Act, Va. Code Section 55-79.39 *et seq.* (the "Condominium Act"), thereby establishing an expandable condominium development known as Bennington on the Park, a Condominium (the "Condominium").

WHEREAS, the Declarant wishes to assign certain common elements as limited common elements and amend the condominium instruments to assign such common elements as limited common elements for the exclusive use of the unit owners to whose condominium units are assigned as hereinafter provided;

WHEREAS, pursuant to Section 3.3 of the Declaration, the Declarant has reserved the right to prepare, execute and record the amendment necessary to effect such an assignment; and

WHEREAS, the Declarant has complied with the provisions of Section 3.3 of the Declaration and Section 55-79.57 of the Condominium Act; and

WHEREAS, the principal officer of Bennington on the Park Condominium Unit Owners Association (the Association") joins herein to acknowledge the assignments made herein.

NOW, THEREFORE, pursuant to and in compliance with Section 3.3 of the Declaration and Section 55.79-57 of the Condominium Act, the Declaration is hereby amended as follows:

Declarant assigns certain common elements designated as "LCE 3,305 S.F. – Units 101-107, 201-211, 301-311 & 401-403", as shown on those certain Plans prepared by Landtech Resources, Inc., dated March 24, 2014 and identified as "Condominium Plan Bennington on the Park, A Condominium, New Town, Section 2 & 4, Block 8, Parcel E, James City County, Virginia, Sheet 1 of 2 and Sheet 2 of 2", copies of which are attached to and recorded with that certain Amendment to the Declaration and Bylaws of Bennington on The Park, a Condominium by Declarant and the principal officer of the Association dated November 21, 2014, recorded immediately prior hereto as Limited Common Elements appurtenant to condominium Units 101-107, 201-211, 301-311 & 401-403.

EXCEPT as modified by this Amendment, all of the terms and provisions of the Declaration are hereby expressly ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the date first set forth above, on behalf of the Declarant.

DECLARANT:

GRANITE MOUNTAIN, LLC  
a Virginia limited liability company

By: [Signature]  
Manager

COMMONWEALTH OF VIRGINIA  
COUNTY OF James City to-wit:

The foregoing instrument was acknowledged before me, Denise Jacqueline Kent, Notary Public, this 21<sup>st</sup> day of November, 2014, by Andy Piplica, who presented valid identification and voluntarily acknowledged this instrument as Manager of GRANITE MOUNTAIN, LLC, a Virginia limited liability company, on behalf of the company.



Denise Jacqueline Kent  
Notary Public  
Registration Number: 315140  
My commission expires: 4/30/2016  
Notary Seal

ASSOCIATION:

BENNINGTON ON THE PARK CONDOMINIUM UNIT OWNERS ASSOCIATION, a Virginia corporation

By: Marshall N. Warner  
President

COMMONWEALTH OF VIRGINIA

COUNTY OF James City to-wit: The foregoing instrument was acknowledged before me this 21 day of November, 2014, by Marshall N. Warner who is personally known to me and acknowledged this instrument as President of Bennington on the Park Condominium Unit Owners Association, a Virginia corporation, on its behalf.

My commission expires: 4/30/2016



Denise Jacqueline Kent  
Notary Public  
Registration No. 315140  
Notary Seal

**VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY**  
This document was admitted to record on 11-21-2014  
at 3:22 ~~PM~~ PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ <u>      </u>	\$ <u>      </u>	\$ <u>      </u>

TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B. Woolridge Clerk

# **Bylaws**

**New Town Commercial Association Inc**

**BYLAWS OF  
NEW TOWN COMMERCIAL ASSOCIATION**

**ARTICLE I**

**Plan of Ownership**

Section 1.1. Applicability. These Bylaws provide for the governance of New Town Commercial Association, a Virginia nonstock corporation (the "Association"). Capitalized terms used herein without definition shall have the meanings specified for such terms in the Amended and Restated Articles of Incorporation of the New Town Commercial Association (the "Articles") or in the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated as of November 26, 2002, made by New Town Associates, LLC, a Virginia limited liability company ("Declarant") and by Casey Office, L.L.C., and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office"), as Instrument No. 020031430. Initial capitalized terms used herein without definition shall be as defined in the Declaration and the Articles.

Section 1.2. Compliance. Every Owner and all those entitled to occupy a Lot shall comply with these Bylaws.

Section 1.3. Office. The principal office of the Association shall be located at 4801 Courthouse Street, Suite 329, Williamsburg, Virginia 23188, or at such other place as may be designated from time to time by the Association Board.

**ARTICLE II**

**Membership**

Section 2.1. Membership. Classes of membership and voting rights and the suspension thereof shall be as set forth in the Declaration.

**ARTICLE III**

**Meetings of Members**

Section 3.1. Annual Meetings. The annual meeting of Members of the Association shall be held on the first Wednesday in December of each year unless the same shall fall on a legal holiday, in which case the annual meeting shall be held on the next ensuing weekday which is not a legal holiday, or on such other date as is set by the Association Board.

Section 3.2. Special Meetings. The President shall call a special meeting of the Association if so directed by resolution of the Association Board or upon a petition signed and presented to the

Secretary by Owners holding not less than ten percent of the Class A membership votes. The notice of any special meeting shall state the time, place and purpose thereof. Only business within the purpose or purposes described on the notice of a special meeting shall be transacted at the meeting.

Section 3.3. Place of Meetings. Meetings of the Members shall be held at the principal office of the Association or at such other suitable place as may be designated by the Association Board.

Section 3.4. Notice of Meetings. The Secretary shall mail to each Owner a notice of each annual or regularly scheduled meeting of the Association at least 14 but not more than 60 days before such meeting, stating the time, date and place thereof. Notice of any other meeting shall be given at least 25 but not more than 60 days prior to such meeting, stating the time, place and the purpose thereof. Notwithstanding the foregoing, notice of any meeting at which there shall be voted upon any amendment to the Articles, a plan of merger, a proposed sale of assets pursuant to Section 13.1-900 of the Virginia Code or the dissolution of the Association shall be given as required by Section 13.1-842 of the Virginia Code. The mailing or personal delivery of a notice of meeting in the manner provided in these Bylaws shall be considered service of notice.

Section 3.5. Adjournment of Meetings. If at any meeting of the Members a quorum is not present, Owners holding a majority of the votes who are present at such meeting in person or by proxy may adjourn the meeting to a time not less than forty-eight hours after the time the original meeting was called. Notice of an adjournment of any meeting of the Association shall be posted at a community communications board or other conspicuous location and shall state the time and place for the meeting to be reconvened.

Section 3.6. Voting.

(a) Voting at all meetings of the Association shall be on the basis set forth in the Declaration and any applicable Supplemental Declaration. Wherever the approval or disapproval of an Owner is required by the Declaration, the Articles or these Bylaws, such approval or disapproval shall be made only by the person who would be entitled to cast the vote of such Lot at any meeting of the Association. Except where a greater number is required by Laws, the Declaration, the Articles or these Bylaws, (a) the Class B Member (so long as the Class B membership exists) and (b) Owners holding more than one-half of the aggregate Class A membership votes present in person or by proxy at a duly convened meeting at which a quorum is present ("Majority of Owners"), are required to adopt decisions at any meeting of the members of the Association. If Declarant owns or holds title to one or more Lots, except as provided in the Articles or the Declaration, Declarant shall have the right at any meeting of the Association to cast the Class A membership votes to which it is entitled as the Owner of such Lot or Lots. Declarant shall also have the right to cast the Class B membership vote so long as the Class B membership has not terminated. Declarant, as a member of the Association, shall not be required to disqualify itself in any vote which may come before the Association upon any management contract or other agreement, lease or matter between Declarant or any individual, partnership or corporation having an identity of interest with Declarant and the Association.

(b) If and when all or any portion of a Lot shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes applicable to such Lot or portion thereof.

Section 3.7. Proxies. A vote may be cast in person or by proxy. Proxies shall be duly executed in writing by one with authority to execute deeds pursuant to the requirements of Section 13.1-847 of the Virginia Code and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt of notice of revocation by the person presiding over the meeting from any of the persons owning such Lot. Except with respect to proxies in favor of a Mortgagee (hereinafter defined), no proxy shall in any event be valid for a period in excess of eleven months after the execution thereof and, in any event, any proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of the proxy.

Section 3.8 Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of the Class B Member (so long as the Class B membership exists) and Owners holding ten percent of the aggregate Class A membership votes shall constitute a quorum at all meetings of the members of the Association.

Section 3.9 Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted and a record of all other transactions occurring, at the meeting. The President may appoint a person to serve as parliamentarian at any meeting of the Association.

## ARTICLE IV

### Association Board

Section 4.1. Number and Election. The affairs of the Association shall be managed under the direction of the Association Board. Members of the Association Board shall be elected or appointed and removed as set forth in the Articles.

Section 4.2. Powers and Duties. The Association Board shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are by applicable law, the Declaration, the Articles or by these Bylaws required to be exercised and done by the Association. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Association Board on behalf of the Association shall have the power and duty to:

(i) Prepare an annual budget in which there shall be established the General Assessments, Limited Common Expense Assessments and Parking Assessments of each Owner.

(ii) Make General Assessments, Limited Common Expense Assessments and Parking Assessments and, to the extent permitted by the Declaration, Special Assessments against Owners to defray the costs and expenses of the Association, establish the means and methods of

collecting Assessments from the Owners and establish the period of the installment payments of the Assessments.

(iii) Provide for the operation, care, upkeep, maintenance and servicing of the Common Areas, the Limited Common Areas and Parking Areas.

(iv) Designate, hire and dismiss the personnel necessary for the operation, care, upkeep, maintenance and servicing of the Common Areas, the Limited Common Areas and Parking Areas and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties.

(v) Collect the Assessments against the Owners, deposit the proceeds thereof in bank depositories designated by the Association Board or invest the same (for which purpose the Association Board may retain an investment adviser) to the extent such proceeds are not immediately required, and use the proceeds to carry out the administration of the Association. Portions of the Assessment for replacement reserves shall be segregated and not subject to lien, pledge, mortgage or other encumbrance.

(vi) Enact and amend Rules and Regulations from time to time; provided, however, that no such Rules and Regulations so adopted shall be in conflict with the Declaration, the Articles or these Bylaws; and provided further that no such Rules and Regulations shall bind or be construed so as to impair in any manner the lien of any Mortgage with respect to any Lot and/or the Common Areas, Limited Common Areas or Parking Areas.

(vii) Open bank accounts on behalf of the Association and designate the signatories thereon.

(viii) Make, or contract for the making of, repairs, additions and improvements to or alterations of the Common Areas, Limited Common Areas and Parking Areas in accordance with the Declaration.

(ix) Enforce by legal means the provisions of the Declaration, the Articles, these Bylaws and the Rules and Regulations promulgated pursuant thereto.

(x) Obtain and carry insurance as provided in the Declaration and in these Bylaws.

(xi) Pay the cost of all authorized services rendered to the Association and not billed to Owners or otherwise provided for.

(xii) Keep books with detailed accounts of the receipts and expenditures affecting the Association and the administration of the Common Areas, the Limited Common Areas and Parking Areas. All books and records shall be kept in accordance with generally accepted accounting principles consistently applied (but may be on the cash method of accounting).

(xiii) Subject to any limitation in the Declaration, acquire, hold and dispose of Lots, Common Areas, Limited Common Areas and Parking Areas.

(xiv) Do such other things and acts not inconsistent with the Declaration, the Articles or these Bylaws which the Association Board may be authorized to do under Laws or by vote of the members of the Association.

(xv) Subject to Section 10.4 of these Bylaws, grant permits, licenses and easements under, through and over the Common Areas, the Limited Common Areas and Parking Areas for drainage, utilities, roads and access and other purposes which are reasonably necessary to the ongoing development and operation of the Properties.

(xvi) When it is authorized to do so as set forth in the Declaration, appoint members of the Architectural Review Board.

(xvii) Borrow money on behalf of the Association and lien, pledge and/or mortgage the assets of the Association when such borrowing is deemed in the best interests of the Association. Any such lien, pledge or mortgage shall be subordinate to the rights of the Class A Members delineated in the Declaration, Bylaws and Articles.

#### Section 4.3. Managing Agent.

(a) Employment of Management Agent. The Association Board may employ for the Association a "Managing Agent" at a compensation to be established by the Board of Directors. The Declarant or an Affiliate of Declarant may be employed as Managing Agent.

(b) Duties. The Managing Agent shall perform such duties and services as the Board of Directors shall authorize, which may include but are not limited to the duties listed in Section 4.2, clauses (i), (iii), (iv), (v), (viii), (ix), (x), (xi) and (xii) of these Bylaws. The Association Board may delegate to the Managing Agent all of the powers granted to the Association Board by these Bylaws other than the powers set forth in Section 4.2, clauses (ii), (vi), (vii), (xiii), (xv), (xvi) and (xvii) of these Bylaws.

(c) Standards. The Association Board may impose appropriate standards of performance upon the Managing Agent.

(d) Liaison. The Association Board may designate one of its members as liaison officer who shall be authorized to instruct and deal with the Managing Agent on any matter.

Section 4.4. Annual Meeting. The annual meeting of the Association Board shall be held promptly following the annual meeting of the members of the Association. No notice shall be necessary to the newly elected members of the Board of Directors in order legally to constitute such meeting, provided a quorum of the Association Board shall be present.

Section 4.5. Regular Meetings. Regular meetings of the Association Board may be held at such time and place as shall be determined from time to time by a majority of the directors. Notice

of regular meetings of the Association Board shall be given to each director, by mail or hand delivery, at least three business days before the day named for such meeting.

Section 4.6. Special Meetings. Special meetings of the Association Board may be called by the President on one business day's notice to each director, given by mail or hand delivery, which notice shall state the time, place and purpose of the meeting. Special meetings of the Association Board shall be called by the President or Secretary in like manner and with like notice on the written request of at least three directors.

Section 4.7. Waiver of Notice. Any director may at any time, in writing signed by such director, waive notice of any meeting of the Association Board, and such waiver shall be deemed equivalent to the giving of such notice. Except in the circumstances described in Section 13.1-867B of the Virginia Code, attendance by a director at any meeting of the Association Board shall constitute a waiver of notice by him of the time, place and purpose of such meeting. If all directors are present at any meeting of the Association Board, no notice shall be required and any business may be transacted at such meeting.

Section 4.8. Quorum of Board of Directors. At all meetings of the Association Board a majority of the directors shall constitute a quorum for the transaction of business, and the vote of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Association Board. If at any meeting of the Association Board there shall be less than a quorum present, those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 4.9. Compensation. No director shall receive any compensation from the Association for acting as such; however, the Association Board may in its discretion reimburse any director for actual expenses incurred.

Section 4.10. Conduct of Meetings. The President shall preside over all meetings of the Association Board and the Secretary shall keep a minute book of the Association Board recording therein all resolutions adopted by the Association Board and a record of all transactions and proceedings occurring at such meetings.

Section 4.11. Action Without Meeting. Any action by the Association Board required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Association Board shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Association Board.

Section 4.12. Telephone Meetings. The Association Board may permit any or all directors to participate in any meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

## ARTICLE V

### Committees

Section 5.1. Committees. The Association Board may create one or more committees and may appoint members of the Association Board, officers of the Association or members to such committees. Committees shall perform such tasks and serve for such periods as may be designated by resolution adopted by the Board. Each committee shall operate in accordance with the terms of the resolution of the Association Board designating such committee or with rules adopted by the Association Board. The provisions of these Bylaws which govern meetings, action without meetings, notice and waiver of notice, quorum and voting requirements of the Association Board shall apply to committees as well.

## ARTICLE VI

### Architectural Review

Section 6.1. Architectural Review Board. There shall be an Architectural Review Board as provided in the Declaration. The number of members, the method of their appointment or election and their duties and powers shall be as set forth in the Declaration. If and when the members of the Architectural Review Board are appointed by the Association Board, the provisions of these Bylaws governing meetings, action without a meeting, notice and waiver of notice and quorum and voting of the Association Board shall apply to the Architectural Review Board as well.

## ARTICLE VII

### Officers

Section 7.1. Designation. The principal officers of the Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Association Board. The Association Board may appoint an assistant treasurer, an assistant secretary and such other officers as in its judgment may be desirable. The President shall be a member of the Association Board. Any other officers may, but need not, be members of the Association Board. Officers need not be Members of the Association.

Section 7.2. Election of Officers. The officers of the Association shall be elected annually by the Association Board at the annual meeting of the Association Board and shall hold office (unless sooner removed) until removal or until their replacements are elected.

Section 7.3. Removal of Officers. Any officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Association Board or at any special meeting of the Association Board called for such purpose.

Section 7.4. President. The President shall be the chief executive officer of the Association, preside at all meetings of the Association and of the Association Board, and have all of the general

powers and duties which are incident to the office of president of a corporation organized under the Virginia Nonstock Corporation Act.

Section 7.5. Vice President. The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Association Board shall appoint some other member of the Association Board to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him or her by the Association Board or by the President.

Section 7.6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Association Board; have charge of such books and papers as the Association Board may direct; maintain a register setting forth the place to which all notices to Owners and Mortgagees requesting notices shall be delivered; upon request by a conveying Owner, deliver statements of all unpaid assessments applicable to the Lot to be conveyed; execute notices of delinquent assessments in accordance with the Declaration; execute notices of and releases of the Lien Notice for delinquent assessments as described in the Declaration and, in general, perform all the duties incident to the office of secretary of a corporation organized under the Virginia Nonstock Corporation Act.

Section 7.7. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data, and be responsible for the deposit of all monies and other valuables in the name of the Association Board, the Association or the Managing Agent, in such depositories as may from time to time be designated by the Association Board; and, in general, perform all the duties incident to the office of treasurer of a corporation organized under the Virginia Nonstock Corporation Act.

## ARTICLE VIII

### Operation of the Property

Section 8.1. Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by the Association Board.

Section 8.2. Adoption of Budget and Establishment of Assessments. Subject to Articles V and IX of the Declaration, the Association Board shall adopt a budget (which shall include any proposed capital expenditures) for any fiscal year as set forth in the Declaration and shall establish the amount of the General Assessment, Limited Common Expense Assessment, Parking Assessments, and Vacant Lot Assessments, if applicable, for every Owner subject thereto. The Association Board shall send written notice of each annual budget and assessment amount to every Owner at least 15 days in advance of adopting the same; provided, however, in the case of a Lot which has been subjected to a condominium form of ownership, notice shall be sent to the condominium unit owners association. In adopting a budget, the Association Board may provide for such reserves as it shall deem appropriate. The failure or delay of the Association Board to prepare or adopt a budget for any fiscal year after the initial budget is adopted shall not constitute a

waiver or release in any manner of an Owner's obligation to pay his Assessments as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Owner liable therefor shall continue to pay each periodic installment at the rate established for the previous fiscal year until notice of the periodic payment which is due more than ten days after such new annual or adjusted budget shall have been delivered.

Section 8.3. Payment of Assessments. Each Owner liable therefor shall pay the Assessments established by the Declaration and these Bylaws. Other than a Transfer Fee, no Owner shall be liable for the payment of any part of the Assessment against his Lot due subsequent to the date of recordation of a conveyance by him in fee of such Lot to a successor Owner (except a conveyance as security for the performance of an obligation). Each such Assessment, together with the interest, late charges and costs of collection (including attorneys' fees) shall also be the personal obligation of the Owner at the time the assessment fell due. If and when all or any portion of a Lot shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of payment of the Assessments applicable to such Lot or portion thereof.

Section 8.4. Collection of Assessments. The Association Board, or the Managing Agent at the request of the Association Board, may take action to collect any Assessments due from any Owner. Each defaulting Owner shall also pay all costs of collection, including without limitation attorneys' fees, incurred in the collection of any unpaid Assessments and shall also pay any expense incurred as a result of a check being returned to the Association without payment.

Section 8.5. Statement of Assessments and Access to Records. The Association Board shall promptly provide any Owner, contract purchaser or Mortgagee so requesting the same in writing with a written statement of the amount of the Assessments levied against a Lot and all unpaid Assessments due from such Owner. The Association may impose and collect a charge, reflecting the actual cost of materials and labor, before providing copies of any books and records to a Member.

Section 8.6. Maintenance, Repair, Replacement and Other Expenses. The Association shall be responsible for such maintenance, repair and replacement of the Common Areas, Limited Common Areas and Parking Areas as is set forth in the Declaration. Unless otherwise determined by the Association Board, all repairs and replacements shall be substantially similar to the original construction and installation and shall be of good quality. The method of approving payment vouchers for repairs and replacements performed by the Association shall be determined by the Association Board.

## ARTICLE IX

### Insurance

#### Section 9.1. General Requirements.

(a) Purchase of Insurance. All insurance policies relating to Common Areas, Limited Common Areas, and Parking Areas shall be purchased by the Association. Neither the

Association Board nor the Managing Agent nor the Declarant shall be liable for failure to obtain any coverage required by the Declaration or this Article IX or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverage is available only at unreasonable cost.

(b) Required Provisions in Policies. Each insurance policy for the Common Areas, Limited Common Areas and Parking Areas shall provide that:

(i) The insurer waives any right to claim (A) by way of subrogation against Declarant, the Association, the Association Board, the Managing Agent or the Owners and their respective Occupants, and (B) invalidity arising from acts of the insured.

(ii) Such policy may not be canceled, not renewed or substantially modified without at least fifteen-(15) days prior written notice of the Association and any Managing Agent.

(c) Declarant. The Declarant, so long as Declarant shall own any Lot, shall benefit from all such policies in the same manner as other Owners, in addition to any other capacity specified herein.

(d) Insurance Companies. All policies of insurance shall be written by reputable companies licensed to do business in the Commonwealth of Virginia and, in the case of the physical damage insurance, holding a rating of B/III or better by Best's Insurance Reports.

#### Section 9.2. Physical Damage Insurance.

(a) All Risk Coverage. The Association shall obtain and maintain a policy of insurance against fire and such other hazards within the meaning of "all risk" insuring the improvements to the Common Areas, Limited Common Areas and Parking Areas (including fixtures and building service equipment and personal property), naming the Association as insured for the use and benefit of all Owners in an amount equal to not less than 100% of the then current replacement cost of the improvements to the Common Areas, Limited Common Areas and Parking Areas (exclusive of land, excavations, foundations and other items usually excluded from such coverage), such amount to be redetermined annually by the Association Board with the assistance of the insurance company affording such coverage. Any deductible shall not exceed the 1% of the amount of coverage and such deductible may be considered in establishing the level of reserves.

(b) Required Provisions. Such policy shall also provide (unless otherwise provided):

(i) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made not to do so.

(ii) The following endorsements (or equivalent) if applicable and available: (A) "contingent liability from operation of building laws", "demolition cost" and "increased cost of construction", (B) "agreed amount" or its equivalent and "inflation guard," and

(C) "steam boiler and machinery coverage" within minimum liability per accident of not less than the lesser of the insurable value of the building housing the boiler or machinery or \$2,000,000.

(iii) That any "no other insurance" clause expressly excludes individual Owners' policies from its operation so that the physical damage policy purchased by the Association shall be deemed primary coverage and any individual Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Association hereunder provide for or be brought into contribution with insurance purchased by individual Owners or their Mortgagees, unless otherwise required by law.

(c) Delivery of Policies to Mortgagees. A duplicate original of the policy of physical damage insurance, all renewals thereof, and any subpolicies or certificates and endorsements issued thereunder together with proof of payment of premiums shall be delivered by the insurer at least ten days prior to the expiration of the then current policy to any Mortgagee requesting the same.

(d) Prohibited Provisions. The Association shall not obtain a policy where (i) under the terms of the carrier's charter, bylaws or policy, contributions or assessments may be made against any Owner or Mortgagee or mortgage loan servicer or become a lien on the Properties; or (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent the Association from collecting insurance proceeds.

Section 9.3. Liability Insurance. The Association shall obtain and maintain commercial general liability insurance in such limits as the Association Board may from time to time determine (but not less than \$1,000,000 for bodily injury or property damage), insuring the Association, each member of the Association Board, the Managing Agent, each Owner and the Declarant against any liability to the public or to the Owners (and their Occupants, invitees, agents and employees) arising out of, or incident to the ownership and/or use of the Common Areas, the Limited Common Areas, the Parking Areas and other areas (if any) under the supervision of the Association including, to the extent applicable and available: host liquor liability, elevator collision liability, comprehensive automobile liability, contractual liability, garage keeper's liability and bailee's liability. Such insurance shall be issued on a comprehensive liability basis and shall contain a "severability of interest" endorsement which shall preclude the insurer from denying liability because of negligent acts of the Association or of another Owner. The Association Board shall periodically review such limits. "Umbrella" liability insurance in excess of the primary limits may also be obtained.

Section 9.4. Other Insurance. The Association shall obtain and maintain:

(i) Fidelity coverage to protect against dishonest acts on the part of officers, directors, employees and agents (including the Managing Agent) of the Association and all others who handle, or are responsible for handling, funds of the Association. Such fidelity bonds shall: (A) name the Association as an obligee; (B) be written in an amount not less than three (3) months' aggregate Assessments on all Lots; and (C) contain waivers of any defense based upon the

exclusion of persons who serve without compensation from any definition of "employee" or similar expression;

(ii) Workmen's compensation and employer's liability insurance if and to the extent necessary to meet the requirements of law and which, if carried, shall name the Managing Agent as an additional insured; and

(iii) Such other insurance as the Association Board may determine or as may be requested from time to time by Owners of a majority of the Lots.

Section 9.5. Separate Insurance by Owners. Each Owner shall have the right and responsibility, at his own expense, to obtain insurance for his own Lot and improvements thereon and for his own benefit; provided, however, that no Owner shall be entitled to exercise his right to obtain such insurance coverage so as to decrease the amount which the Association, on behalf of all Owners, may realize under any insurance policy maintained by the Association or to cause any insurance coverage maintained by the Association to be brought into contribution with insurance coverage obtained by an Owner. All such policies shall contain waivers of subrogation as against the Association and the Association Board, the Declarant and the Managing Agent, and their respective agents and employees. No Owner shall obtain separate insurance policies in conflict with this Section. Upon each Owner's purchase of a Lot, each Owner shall provide to the Association within five (5) business days of settlement of the purchase of such Lot, a certificate of insurance evidencing the insurance required under this Section, which certificate shall state that the insurer will provide to the Association at least thirty (30) days advance written notice in the event that such policy is either not being renewed or is being terminated.

Section 9.6. Association Board as Agent. The Association Board is hereby irrevocably appointed the agent and attorney-in-fact for each Owner, each Mortgagee, other named insureds and their beneficiaries and any other holder of a lien or other interest in the Property to adjust and settle all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims and to pursue and settle all claims arising out of the taking by way of eminent domain of any of the Common Area, Limited Common Area or Parking Area.

## ARTICLE X

### Mortgages

Section 10.1. Notice to Association. An Owner who acquires a Lot shall promptly notify the Association of his name and address. Any holder or beneficiary of a Mortgage or deed of trust on a Lot (a "Mortgagee") may give written notice to the Association of its name and address and the address of the Lot to which its Mortgage applies.

Section 10.2. Notice of Default, Casualty or Condemnation. Upon request, the Association shall give notice to any Mortgagee of a default in paying an assessment or any other default with respect to that Mortgagee's Lot which has not been cured within 60 days.

Section 10.3. Other Rights of Mortgagees. Upon request, any Mortgagee shall be entitled to receive written notice of meetings of the Association, and all Mortgagees or their designees shall be entitled to attend meetings of the Association and shall have the right of a member to speak at such meetings. All Mortgagees shall have the right of a member to examine the books and records of the Association.

Section 10.4. Payment of Charges. Mortgagees holding a first lien on Lots may:

(i) jointly or singly pay taxes or other charges that are in default and that may have become charges against the Common Areas, the Limited Common Areas and the Parking Area; and

(ii) pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage for the Common Areas, the Limited Common Areas and the Parking Area in case of lapse of a policy.

First lien Mortgagees making such payments are due immediate reimbursement from the Association, and upon request by a First lien Mortgagee, the Association shall execute an agreement reflecting the foregoing in favor of all first lien Mortgagees of Lots.

## ARTICLE XI

### Miscellaneous

Section 11.1. Notices. All notices, demands, requests, statements or other communications to the Association under these Bylaws shall be in writing and shall be either delivered in person or if sent by U.S. first class mail, postage prepaid, to the Association, at New Town Associates, LLC, 4801 Courthouse Street, Suite 329, P.O. Box 5010, Williamsburg, Virginia 23188, Attention: Secretary; with copies to Elizabeth L. White, Esq., Kaufman & Canoles, 4801 Courthouse Street, Suite 300, P.O. Box 6000, Williamsburg, Virginia 23188, or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section. Notices to Declarant, Owners and Mortgagees are covered by the Declaration.

Section 11.2. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.

Section 11.3. Gender, Etc. The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

Section 11.4. Construction. These Bylaws are intended to comply with applicable laws and shall be so interpreted and applied. In the event of conflict between the Declaration or the Articles and these Bylaws, the Declaration or Articles shall control.

Section 11.5. Amendments. These Bylaws may be amended (i) by the Association Board during the Period of Declarant Control and (ii) thereafter by a vote of at least two-thirds (2/3) of the

Class A votes entitled to be cast by Members present at a duly convened meeting at which a quorum is present. For purposes of this Section, the presence in person or by proxy of Members entitled to cast 50% of the aggregate Class A membership votes shall constitute a quorum; however, to the extent any such amendment would be inconsistent with the Declaration, such amendment shall be adopted in the same fashion as an amendment to the Declaration.

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**CC&Rs**

**Bennington on the Park Condominium Inc**

Tax Map No.: A620296528

Prepared by:  
Williams, Mullen, Clark & Dobbins  
P. O. Box 1320  
Richmond, VA 23218-1320

070004489

DECLARATION  
OF  
BENNINGTON ON THE PARK, A CONDOMINIUM

Pursuant to the provisions of Chapter 4.2 of Title 55 of the Code of Virginia of 1950, as amended (the "Condominium Act"), GRANITE MOUNTAIN, LLC, a Virginia limited liability company ("Declarant"), makes this DECLARATION for the purpose of establishing BENNINGTON ON THE PARK, A CONDOMINIUM (the "Condominium").

RECITALS

WHEREAS, Declarant is the owner of record of the fee simple title to the real property situated, lying and being in James City County, Virginia, as more particularly described in Exhibit A, and as depicted more particularly on that certain plat entitled "Condominium Plat of Bennington on the Park, a Condominium, Block 8, Parcel E, James City County, Virginia" attached hereto as Exhibit B, both of which Exhibits are incorporated herein by reference; and

WHEREAS, it is the desire and intention of Declarant to submit the real property that it owns, afterwards referred to as the "Land", to the provisions of the Condominium Act and thereby create the Condominium.

ARTICLE I  
CREATION OF CONDOMINIUM

1.1 Submission of Property. Declarant, owner in fee simple of the land, and improvements thereon, located in the James City County, Virginia, described in Exhibit A attached hereto (the "Land"), submits the Land, together with all easements, rights and appurtenances thereunto belonging, to the provisions of the Condominium Act and creates with respect thereto a condominium known as Bennington on the Park, A Condominium (the "Condominium").

1.2 Defined Terms. Unless a term is otherwise expressly defined in the Condominium Instruments, it shall have the meaning specified in the Condominium Act.

- 1.2.1 "Association" or "Unit Owners Association" is a nonprofit organization known as Bennington on the Park Condominium Unit Owners Association, which shall function as the Unit Owners Association for the Condominium.
- 1.2.2 "Attributed Parking Spaces" shall have the meaning set forth in the Parking Assignment.
- 1.2.3 "Board of Directors" is the board of directors of the Association.
- 1.2.4 "Bylaws" are the Bylaws of the Unit Owners Association. A copy of the Bylaws is attached as Exhibit F hereto.
- 1.2.5 "Commercial Unit" means any Unit in the Condominium which is located on the First Floor of the Condominium in the space identified on the Plans as "Commercial Unit A".
- 1.2.6 "Condominium Instruments" refer to this Declaration, the Articles of Incorporation of the Association and the Bylaws.
- 1.2.7 "Convertible Space" shall have the meaning set forth in Section 55-79.41 of the Act and, to the extent applicable, is shown on the plans attached hereto as Exhibit C.
- 1.2.8 "Master Association" means New Town Commercial Association, a non-stock corporation incorporated in the Commonwealth of Virginia and its successors and assigns.
- 1.2.9 "Master Declaration" means the Amended and Restated Master Declaration of Covenants and Restrictions for New Town Commercial Properties recorded in the Clerk's Office for the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 200031430, as the same may be amended, Modified or supplemented from time to time.
- 1.2.10 A "Mortgage" is any first deed of trust or mortgage encumbering a Unit or part thereof.
- 1.2.11 A "Mortgagee" is the holder of a note secured by a Mortgage who has given written notice to the Association stating its name, address and Unit subject to its Mortgage.
- 1.2.12 "New Town Design Review Board" means the separate board established pursuant to the New Town Proffers (as defined in the definition of "Zoning Ordinances" in the Master Declaration), the approval of which is required with respect to all subdivision plats, site plans, landscaping plans, architectural plans and elevations and other development plans for such Owner's Lot. The procedures for such design review process are set

forth in the New Town Proffers and the rules adopted by the Newtown design Review Board pursuant thereto.

1.2.13 "New Town Design Guidelines" means the set of Design Guidelines incorporated by reference in the New Town Proffers as defined in the Master Declaration (as the same may be further amended, supplemented, or amended and restated in whole or in part from time to time.)

1.2.14 "Parking Assignment" means the Assignment of Attributed Parking Spaces from New Town Associates, LLC to Diversified Commercial Investments, LLC dated September 23, 2004 and recorded in the Clerk's Office as Instrument No. 0600014180.

1.2.15 "Par Value" means the number of points assigned to each Unit as set forth in Exhibit D to this Declaration.

1.2.16 "Percentage Interest" is the individual percentage interest in the Common Elements allocated and appertaining to each Unit. The Percentage Interest appertaining to each Unit is calculated as the percentage that the par value of that Unit bears to the sum of the total par value of all of the Units, as such number may be increased from time to time in connection with the expansion of the Condominium.

1.2.17 "Period of Declarant Control" shall mean that period beginning on the date of recordation of this Declaration and expiring on the first to occur of (i) the date upon which Units to which seventy-five percent (75%) of the Percentage Interests appertain have been conveyed or (ii) two (2) years after the date of settlement of the first Unit in the Condominium to be sold.

1.2.18 "Plats and Plans" are the plats and plans included in Exhibits B and C, respectively, attached hereto.

1.2.19 "Residential Unit" is any Unit other than a Commercial Unit.

1.2.20 "Unit" means that portion of the Condominium designed and intended for individual ownership and use and described in Article II of this Declaration.

1.2.21 "Unit Owner" shall mean the fee simple owner of a Unit (including Declarant as to Condominium Units owned by Declarant and including contract sellers), but excluding contract purchasers and those holding title merely as security for the performance of an obligation.

ARTICLE II  
UNITS

2.1 Location. The Condominium is located at 5215 Center Street, Williamsburg, James City County, Virginia.

2.2 Building. The location and dimensions of the building on the Land is depicted on the plats and plans attached hereto as Exhibits B and C, respectively.

2.3 Units. The locations of the Units are shown on the Plans attached as Exhibit C hereto. Each Unit is given an identifying number as set out on Exhibit C. A list of all Units, their identifying numbers, Par Value and the Percentage Interest appurtenant to each Unit is set forth on Exhibit D.

2.4 Unit Boundaries.

2.4.1 The upper boundary of each Unit is the unfinished interior surface of the ceiling. The lower boundary of each Unit is the top surface of the unfinished subflooring or concrete floor. The vertical or perimetric boundaries are the vertical planes of the undecorated interior surface of the perimeter walls which bound the Unit extended to intersections with each other and with the upper and lower boundaries. The planes formed by such boundaries shall be projected, if necessary, by reason of structural divisions such as interior walls and partitions, to constitute complete enclosures of space and all improvements within that space.

2.4.2 Without limiting the foregoing, each Unit shall include the following:

a. the decorated surfaces, including paint, wall covering, tile, finished flooring and other finishing material, applied to floors, ceilings and interior and perimeter walls, carpeting, if any, and also the floors and ceilings themselves and all, lath, drywall, plasterboard, plaster, paneling and other finishing wall material;

b. entrance doors, windows (including frames, sashes, jambs and hardware) and screens; and

c. any portion of any electrical, plumbing, heating, air-conditioning, gas, ventilation duct work or other utility system, which serves only that Unit (even if located outside the boundaries of the Unit).

2.4.3 A Unit shall not include the following items, whether or not located within the boundaries of that Unit:

a. any supporting element of the building contained within the interior walls; and

b. all plumbing, electric, heating, cooling and other utility or service lines, pipes, sump pumps and accessories thereto, wires, ducts and conduits which serve the Unit and any other Units.

2.4.4 Except as expressly set forth in this Section, this description of the Unit boundaries shall be governed by the provisions of Section 55-79.50 of the Condominium Act.

2.5 Relocation of Unit Boundaries and Subdivision of Units. Relocation of boundaries between Units and subdivision of Units are permitted subject to compliance with the provisions therefore in Sections 6.6 and 9.7 of the Bylaws and in sections 55-79.69 and 55-79.70 of the Condominium Act.

### ARTICLE III COMMON AND LIMITED COMMON ELEMENTS

3.1 Common Elements. The Common Elements consist of all of the property in the Condominium that is not included within or as part of a Unit.

3.2 Limited Common Elements. The portion of the Land and improvements, if any, designated on the plats and plans as "Limited Common Element" identified as appertaining to each Unit, any Attributed Parking Spaces assigned to Units and other items designated by Section 55-79.50(e) of the Condominium Act and not otherwise included in the description of a Unit shall be Limited Common Elements and shall appertain exclusively to the designated Unit or Units to which such Limited Common Element is appurtenant. Limited Common Element parking spaces and storage bins may be assigned as Limited Common Elements pursuant to the provisions of Section 55-79.57C of the Condominium Act by causing an appropriate amendment to this Declaration to be signed and recorded; provided, however, in the event of the assignment of Limited Common Element parking spaces, each Unit shall be assigned not less than one parking space. If prior to the recordation of the Amendment, a person acquires the right to the assignment of a limited common element, Declarant shall evidence the right to the assignment in the deed to the unit to which such limited common element shall appertain. Limited Common Elements shall be reserved for the exclusive use of the owner of the Unit or Units designated within the area designated as "Limited Common Element." Limited Common Elements may include patio areas, balconies, porches, storage bins and Attributed Parking Spaces.

3.3. Common Elements which may be Assigned as Limited Common Elements.

a. Declarant hereby reserves the right to assign or reassign Common Elements, including storage bins and Attributed Parking Spaces, as Limited Common Elements. Declarant may assign Common Elements as Limited Common Elements to individual Units by the preparation, execution and recordation of an amendment to the Declaration for such purpose as provided in Section 55-79.57C of the Condominium Act. Such amendment need only be executed by the Declarant. Declarant's right to assign Common Elements as Limited Common Elements shall survive the expiration of the Declarant Control Period (defined in the Bylaws).

b. Declarant may, at any time, by the preparation, execution and recordation of an amendment to this Declaration, relinquish to the Association its right to assign Common Elements as Limited Common Elements. Thereafter, the Association may assign Common Elements as Limited Common Elements in the same manner as provided above for the Declarant.

c. Any Limited Common Element may be converted to a Common Element as provided by Section 55-79.57 of the Condominium Act.

3.4 Reserved Common Elements. The Board of Directors shall have the power in its discretion from time to time to grant revocable licenses in designated common elements to the Association or to unit owners and to establish a reasonable charge to such unit owners for the use and maintenance thereof. The common elements or portions thereof so designated shall be referred to as Reserved Common Elements. Such designation by the Board shall not be construed as a sale or disposition of the common elements.

3.5 Maintenance, Repair and Replacement. Except as provided in the Bylaws, any expense of maintenance, repair or replacement relating to the Common Elements and Limited Common Elements shall be treated as a Common Expense and shall be assessed against the Units by the Association in proportion to their respective Percentage Interests. The provisions of the Bylaws shall further govern the division of maintenance, repair and replacement responsibilities between the Unit Owner and the Association.

3.6 Alterations of Common Elements by Declarant. Declarant reserves the right to modify, alter, remove or improve defective, obsolete or nonfunctional portions of the Common Elements, including, without limitation, any equipment, fixtures and appurtenances, when in Declarant's sole discretion it is necessary or desirable to do so, until the expiration of the applicable warranty period.

3.7 Structural Integrity. Nothing shall be done to any Unit, or in, on or to the Common or Limited Elements, which may impair the structural integrity of any improvement.

#### ARTICLE IV PERCENTAGE INTERESTS

Allocation of Undivided Interest in Common Elements. Pursuant to the provisions of Section 55-79.55 of the Condominium Act, an undivided ownership interest in the Common Elements is allocated to each Unit in the Condominium based upon the par value of each Unit. The par value and Percentage Interest allocated to each Unit is as shown on Exhibit D hereto.

ARTICLE V  
EASEMENTS AND RESERVED RIGHTS

In addition to the easements for encroachments and to facilitate expansion created respectively by Sections 55-79.60 and 55-79.65 of the Condominium Act, the following easements are granted or reserved as the case may be:

5.1 Easement to Facilitate Sales. Declarant reserves an easement to facilitate sales pursuant to the provisions of Section 55-79.66 of the Condominium Act. All Units are subject to this easement. Declarant reserves the right to use any Units owned by Declarant as models, management offices or sales offices until such time as Declarant conveys title thereto to Unit Owners. Declarant reserves the right to relocate such model, management office or sales office from time to time within the Condominium. Declarant further reserves the right to maintain advertising signs in compliance with applicable governmental regulations. Such signs may be placed in any location within the Condominium and may be relocated or removed, at the sole discretion of Declarant.

5.2 Easement for Ingress and Egress Through Common Elements, Access to Units and Support.

5.2.1 Declarant reserves an easement, and each Unit Owner is granted an easement in common with each other Unit Owner for ingress and egress through all Common Elements, subject to such reasonable rules, regulations and restrictions as may be imposed by the Association. Each Unit is burdened with and subject to an easement for ingress and egress through all Common Elements by persons lawfully using or entitled to the same.

5.2.2 Declarant reserves in favor of Declarant and the Association, and the authorized agents of each, the right of access to any Unit as provided in Section 55-79.79 of the Condominium Act and the Bylaws. In case of emergency, such entry may be immediate, regardless of whether the Unit Owner is present.

5.2.3 Each Unit and Common Element shall have an easement for lateral and subjacent support from every other Unit and Common Element.

5.3 Easements for Operations. Easements to the Association shall exist upon, over and under all of the Condominium for ingress and egress from, and the installation, replacing, repairing and maintaining of, all utilities, including, but not limited to water, sewer, gas, telephone, electricity, security systems, master television antennas and cable television, and walkways, and for all other purposes necessary for the proper operation of the Condominium. By these easements, it shall be expressly permissible for the Association to grant to the appropriate public authorities and/or private companies and contractors permission to construct and maintain the necessary appurtenances and improvements on, above, across and under the Condominium, provided that such appurtenances and improvements do not unreasonably interfere with the use and enjoyment of the Condominium. Should any public authority or other company furnishing a service request a specific easement, permit, or license, the Board shall have the right to grant

such easement, permit, or license without conflicting with the terms hereof. In addition, in the event the Board determines that the grant of easement rights to others is in the best interest of the Association, the Association shall have the right to grant the same, provided that use of the same would not, in the sole judgment of the Board, unreasonably interfere with the use and enjoyment of the Condominium by the Unit Owners.

5.4 Easements Not for Public Use; Easements for Services. Nothing contained in this Declaration shall be deemed to grant any easements to the public or for the public's use. Nonexclusive easements are hereby granted to all police, firemen, ambulance operators, postal services, delivery persons, and trash removal personnel to enter the Common Elements in the performance of their duties, subject to such reasonable rules and regulations as the Board may establish from time to time.

5.5 Additional Easements. The Declarant shall have the right, during the Declarant Control Period, to grant and reserve, and does hereby reserve for itself and its successors and assigns, easements and rights-of-way through, under, over and across the Land and through the elevator shaft, risers and conduits of the Condominium for construction purposes and for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone, cable television, and other utilities. In addition, Declarant shall have the right, at any time and from time to time, to assign any of the easements reserved to Declarant in this Article V. Such assignment may be non-exclusive with Declarant's rights or the rights of other assignees. Any such assignment shall be in writing and executed by Declarant.

5.6 Parking Assignment. As set forth in the Parking Assignment, all Unit Owners, occupants, lessees, invitees and guests shall have the right to utilize in common Forty-four (44) Attributed Parking Spaces located within the Subject Parking Area, all as defined in and subject to the terms and conditions of the Parking Assignment and the Master Declaration. Parking rights are subject to the provisions of the Master Declaration. Notwithstanding the fact that individual Attributed Parking Spaces may be assigned as Limited Common Elements, such parking right is a Common Expense of the Condominium and any expenses associated therewith are Common Expenses.

## ARTICLE VI USE RESTRICTIONS

6.1 Residential Use. All Residential Units shall be used for private residential purposes exclusively, except such temporary nonresidential uses as may be permitted by the board of directors of the Association (the "Board of Directors") from time to time. Nothing in this Declaration shall be construed to prohibit the Declarant from (a) using any Unit which Declarant owns for sales or management offices or for promotional, marketing or display purposes as "model units", or (b) leasing any Unit or Units which Declarant owns. Any Unit Owner that is a corporation, trust or partnership shall annually notify the Association in writing of the name or names of those persons entitled to use the Unit.

6.2 Leasing. The Declarant and the Association shall have the right to restrict the number of Residential Units that may be leased so that seventy percent (70%), or a greater percentage as may be required by then current Fannie Mae and Freddie Mac regulations, of the Residential Units shall be owner-occupied at all times. The Association shall maintain records on such Residential Unit uses. No Residential Unit shall be rented for transient or hotel purposes or for any period less than six (6) months, without the prior written approval of the Board of Directors. Furthermore, no portion of a Unit less than an entire Residential Unit shall be rented. No Residential Unit Owner shall lease a Residential Unit other than on a written form of lease: (i) requiring the lessor to provide a copy of the Condominium Instruments to the lessee and obtain a written acknowledgement of receipt of the Condominium Instruments stating that the lessor and lessee remain responsible for compliance under the Condominium Instruments; (ii) requiring lessee to comply with the Condominium Instruments and such rules and regulations as are promulgated by the Board of Directors from time to time; (iii) providing that failure to so comply constitutes a default under the lease; and (iv) providing that the Board of Directors shall have the power to terminate the lease or bring summary proceedings to evict the lessee in the name of the Unit Owner/lessor upon any such default which is not cured by either the lessee or the Unit Owner/lessor within thirty (30) days after the delivery of written notice of such default to each of them. The Board of Directors may require a standard form lease for use by Unit Owners. Each Unit Owner shall, promptly following the execution of a lease of a Residential Unit, forward a copy thereof to the Board of Directors certified by the Unit Owner as true, correct and complete. A Unit Owner who has been granted written approval to lease his Unit(s) shall have the right to continue to lease the Unit(s) until that Unit Owner either conveys the Unit(s) to an unrelated third party or voluntarily relinquishes such right by written notice to the Board of Directors of the Association. The provisions of this Section shall not apply to Declarant or to any Mortgagee who comes into possession of the Unit by reason of any remedies provided by law or in any Mortgage, or as a result of foreclosure or judicial sale, or as a result of any proceeding, arrangement, or deed in lieu of foreclosure.

6.3 Signage. Except for such signs as may be posted by the Declarant for promotional or marketing purposes, no signs, posters or advertisements of any character shall be erected, posted or displayed upon, in, from or about any Unit or Common Element, except as authorized by the Board of Directors or by the Rules and Regulations. All signage is subject to approval by the Architectural Review Board of the Master Association. As more particularly addressed in the Master Declaration, other restrictions on signage may be set forth in the Rules and Regulations and Development Guidelines promulgated by the Board of Directors or the Architectural Review Board, respectively, of the Master Association. In addition, to the extent applicable, Unit Owners must (i) comply with the New Town Design Guidelines and obtain the approval of the New Town Design Review Board and (ii) comply with any requirements of James City County and obtain any necessary approvals therefrom.

6.4 Alterations of Units. Except for subdividing Units and combining Units as contemplated in Section 2.5 hereof, no Unit Owner shall make structural alterations or modifications to his Unit or to any of the Common Elements and Limited Common Elements, including, but not limited to, the erection of antennas, aerials, awnings, the placement of reflective or other material in the windows of the Unit, or other exterior attachments, without the

prior written approval of the Association and the Declarant, which approval shall not be unreasonably withheld; provided, however, any such alteration or modification to the Commercial Unit and to Common Elements and Limited Common Elements adjacent or appurtenant thereto shall conclusively be deemed to have been approved by the Association if such modifications comply with the Development Guidelines and if applicable New Town Design Guidelines and have been approved by the Architectural Review Board of the Master Association and the New Town Design Review Board, if applicable, as more particularly described below. The Association and the Declarant shall not approve any alterations, decorations or modifications which would jeopardize or impair the soundness, safety or appearance of the Condominium. Any such alteration shall also comply with any Development Guidelines (as defined in the Master Declaration) and if applicable New Town Design Guidelines, and the Architectural Review Board of the Master Association and the New Town Design Review Board, if applicable, must approve such alterations or improvements.

6.5 Prohibited Uses and Nuisances. Section 6.9 of the Bylaws contains certain restrictions on and prohibitions against various uses and activities. Those restrictions and prohibitions are covenants running with the land and shall be binding upon every Unit Owner upon purchase of a Unit, enforceable in accordance with the provisions of the Condominium Instruments and the Condominium Act.

6.6 Compliance. Each Unit and the Common Elements shall be occupied and used in compliance with this Declaration, the Bylaws and such Rules and Regulations which may be promulgated and amended from time to time by the Board of Directors. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the Bylaws and the Rules and Regulations, as they may be adopted and amended from time to time, are accepted and satisfied by such Owners, Tenants or occupant, and all of such provisions shall be deemed and taken to be enforceable equitable servitudes and covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed or lease thereof. Copies of the Rules and Regulations shall be furnished by the Board of Directors to each Unit Owner and each Tenant. Amendments to the Rules and Regulations shall be conspicuously posted prior to the time when the same shall become effective and copies thereof shall be furnished to each Unit Owner and Tenant upon request. The Rules and Regulations are in addition to any Rules and Regulations adopted from time to time by the Master Association and, to the extent of any conflict between the Rules and Regulations of the Condominium and the Rules and Regulation of the Master Association, the Rules and Regulation of the Master Association shall control.

## ARTICLE VII CONDEMNATION

The provisions of Section 55-79.44 of the Condominium Act shall prevail and govern upon the taking of a Unit or Common Elements or portions thereof in condemnation or by eminent domain.

**ARTICLE VIII**  
**CONVERTIBLE SPACE**

Declarant shall have the right, without the consent of any other Unit Owner or, except as provided below, any Mortgagee of the Declarant or of any Unit Owner, to convert all or any portions of any Convertible Space into one or more Units and/or Common Elements, including without limitation Limited Common Elements, pursuant Sections 55-79.58(d) and 55-79.62 of the Act and to file any amendments to this Declaration and Exhibits hereto in connection therewith. Any Convertible Space, or portion or portions thereof, not so converted shall be treated for all purposes as a single Unit until and unless it is so converted, and the provisions of the Act and this Declaration shall be deemed applicable to any such space, or portion or portions thereof, as though the same were a Unit.

**ARTICLE IX**  
**DECLARANT RIGHTS**

9.1 **Right to Lease or Sell Units.** Declarant shall own each Condominium Unit not sold to any purchaser or otherwise transferred in fee simple. Notwithstanding any restrictions on leasing contained in Section 6.2 of this Declaration, Declarant retains the right to enter into leases with any third parties for the occupancy of any of the Units owned by Declarant.

9.2 **Special Declarant Rights.** "Special Declarant Rights" are those rights reserved for the benefit of a declarant as provided for in the Condominium Act and the Condominium Instruments, including without limitation the following rights: (a) to maintain sales offices, management offices, signs advertising the Condominium and models; (b) to appoint or remove any officer of the Association or Board of Directors during the period of Declarant control pursuant to Section 55-79.74A of the Condominium Act; (c) to convert convertible space; (d) to make technical amendments to this Declaration; and (e) to exercise any power or responsibility otherwise assigned by any Condominium Instrument or by the Condominium Act to the Association, any officer or the Board of Directors. All Special Declarant Rights are reserved by, and are vested in, the Declarant. Special Declarant Rights may be transferred pursuant to Section 55-79.74:3 of the Condominium Act; provided, however, the Master Association shall be notified if there is any transfer or assignment of Declarant rights.

**ARTICLE X**  
**ADMINISTRATION OF THE CONDOMINIUM**  
**BY THE UNIT OWNERS ASSOCIATION**

10.1 **Authority.** A nonprofit organization, known as Bennington on the Park Unit Owners Association, will function as the Unit Owners Association. The organization may be, but is not required to be, incorporated. The Association will administer the operation and management of the Condominium and shall have the power to perform all acts and duties incident to such administration in accordance with the terms of its Articles of Incorporation and

the Bylaws, which are attached to this Declaration as Exhibits E and F, respectively, as well as in accordance with the terms of the Condominium Act. All Unit Owners shall automatically become members of the Association and such membership shall automatically terminate upon divestiture of such ownership regardless of how such ownership is divested. No person, firm or corporation holding any lien, deed of trust or other encumbrance upon any Unit or upon the Condominium as a whole shall be entitled by virtue of such lien, deed of trust or other encumbrance to membership in the Association or to any of the rights or privileges of such membership. The Association shall have and is granted the authority to enforce the provisions of this Declaration, the Articles of Incorporation and Bylaws and to enforce such rules and regulations governing the use of the Units and all other property of the Condominium as the Board of Directors may determine.

10.2 Board of Directors as Agent. The Board of Directors shall have the power to act as agent for the Owners of all of the Units and for each of them, to manage, control and deal with the interests of such Owners in the Common Elements of the Condominium and to permit the Board of Directors to fulfill all of its powers, rights, functions and duties. The Board of Directors shall have the power to act as agent for each Owner, each Mortgagee, other named insureds and their beneficiaries and any other holder of a lien or other interest in the Condominium or the Property to: (i) adjust and settle all claims arising under insurance policies purchased by the Board of Directors, (ii) execute and deliver releases upon the payment of claims, and (iii) act on their behalf in any condemnation proceeding or action of eminent domain pursuant to section 55.79.44 of the Condominium Act. The powers hereby granted shall be in addition to any rights granted by section 55-79.80(B) of the Condominium Act. The Board of Directors may grant and accept easements and licenses pursuant to section 55-79.80(B) of the Condominium Act.

10.3 Assessments. The Board of Directors of the Association shall have, and is hereby granted, the authority and duty to levy and enforce the collection of general and special assessments for the common expenses. Each Unit Owner will pay a monthly assessment to the Master Association. The Unit Owners Association shall serve and act as agent for the Unit Owners for purposes of payment of assessments under the Master Declaration. Assessments against any Unit, with interest, costs and reasonable attorney's fees, shall become a lien upon such Unit if not paid when due in accordance with the Condominium Act and the Bylaws. Each assessment against a Unit shall also be the personal obligation of the Unit Owner at the time the assessment falls due. Such personal obligations shall not pass to successors in title unless assumed by them or required by the Condominium Act. Adequate remedies for failure to pay assessments shall be set forth in the Bylaws. The Master Association retains the right to enforce collection of all assessments due under the Master Declaration as provided in the Master Declaration and in any manner permitted by Virginia law.

**ARTICLE XI**  
**GENERAL PROVISIONS**

11.1 Amendments. This Declaration may be amended upon (i) the consent of owners of Units to which eighty percent (80%) or more of the votes allocated to all of the Units appertain, (ii) compliance with Section 12.4(b) of the Bylaws, and (iii) the recording of an instrument setting forth such amendment in the Clerk's Office of the Circuit Court of James City County, Virginia. Notwithstanding the foregoing, (i) technical amendments which do not materially alter the substantive rights of Unit Owners, and (ii) amendments to conform this Declaration to the requirements and guidelines, as modified from time to time, of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the United States Veterans Administration need only have the consent of Declarant. Each Unit Owner shall be given written notice of any amendment effected only by Declarant within thirty (30) days after the date such amendment is recorded. No amendment to this Declaration shall diminish or impair the rights of Declarant without the written consent of Declarant. No amendment of the Declaration affecting the obligations, responsibilities or rights with respect to the Master Association or under the Master Declaration may be made without the prior written approval of the Master Association. Additionally, no amendment may modify this Section or the rights of any person hereunder.

11.2 No Obligations. Nothing contained in the Condominium Instruments shall be deemed to impose upon the Declarant any obligations of any nature to build, construct or provide any buildings or other improvements except to the extent required by the Condominium Act.

11.3 Mortgagee Approval. Without the prior written approval of at least two-thirds (2/3) of the Mortgagees (based on one vote for each mortgaged Unit):

11.3.1 no portion of the Condominium shall be abandoned or terminated except as provided by Code of Virginia Section 55-79.44 or other law in the case of a taking by condemnation or eminent domain;

11.3.2 no material amendment shall be made to the Declaration or Bylaws, including (without limitation) any amendment which would change the Percentage Interests (except such changes resulting from the expansion of the Condominium) or voting rights allocated to each Unit;

11.3.3 no residential Unit shall be partitioned or subdivided;

11.3.4 the Common Elements shall not be, whether by act or omission, partitioned, subdivided, encumbered, sold or transferred, except that the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Elements by the Condominium shall not be deemed a transfer within the meaning of this provision;

11.3.5 hazard insurance proceeds for losses to any of the Common Elements or Units shall not be used for any purpose other than the repair, replacement or reconstruction of such damaged property.

11.4 No Revocation or Partition. The Common Elements shall remain undivided and no Unit Owner or any other person shall bring any action for partition or division of the Common Elements, nor shall the Common Elements be abandoned by act or omission, unless the Condominium that is terminated an affirmative vote of the Unit Owners to which at least four-fifths of the votes allocated to all Units in the Condominium appertain.

## ARTICLE XII COMMERCIAL UNITS

12.1 Disclosure. The Condominium is a mixed use development, consisting of both residential and commercial space. The Commercial Unit is located on the first floor as shown on the Plans. In recognition of the fact that the successful operation of the Commercial Unit and the businesses therein is essential, establishes the character of the Condominium, and must be supported and continued, the rights and privileges set forth in this Article XII are irrevocably reserved to and vested in the Commercial Unit.

12.2 Rights and Privileges. The Owner of the Commercial Unit shall have the following rights and privileges:

12.2.1 Rules and Regulations. To promulgate and enforce rules and regulations regarding the use of the Commercial Unit, and the activities which may affect, directly or indirectly, the Commercial Unit. By way of illustration and not of limitation, rules and regulations may be promulgated with respect to the following subjects:

- (i) rights of first refusal for commercial tenants, subleasing and assignment;
- (ii) restrictions on the type or nature of business or business activity that may occur upon the premises; otherwise to permit or regulate any lawful use whatsoever;
- (iii) restrictions or requirements for interior or exterior signage or lighting, including any signage or lighting that may be located upon or visible from the exterior of the Commercial Units;
- (iv) restrictions or requirements for tenants with special needs, such as medical, dental, or similar tenants;
- (v) restrictions or requirements for parking, the loading or unloading of materials or goods, or the storage or sale of materials or goods.

12.2.2 Conflicts. Notwithstanding any provision to the contrary in this Declaration, the Commercial Unit shall not be subject to any rules or regulations promulgated by the Association to the extent they may conflict with the rights and privileges reserved for the Commercial Unit herein. The Owner of the Commercial Unit shall have sole, exclusive, final and nonreviewable jurisdiction and authority to promulgate and enforce rules and regulations regarding or affecting the Commercial Unit which rules or regulations shall take precedence in the event of conflict with a rule or regulation promulgated by the Association.

12.2.3 Appointment of Member of the Board of Directors. The Owner of the Commercial Unit shall have the right at all times to appoint one member of the Board of Directors of the Association.

12.3 Subdivision of Commercial Unit. In the event that the Commercial Unit is subdivided into more than one Unit, the rights and privileges created hereby shall be exercised pursuant to Article 2 of the By-Laws.

12.4 Special Easement Rights. In addition to any other easements or rights reserved or granted in this Declaration, the Owner of the Commercial Unit is hereby granted easements to use the roof of the building to install, operate, maintain, repair and replace telephone, security and communications facilities. Such easement shall be assignable on a non-exclusive basis. To the extent that the exercise of such easement creates an additional expense for the Association, the responsible Owner may be held liable for such expense pursuant to Section 6.1(b)(1) of the Bylaws.

ARTICLE XIII  
MEMBERSHIP IN NEW TOWN COMMERCIAL ASSOCIATION

The Condominium is located within the New Town planned development and as such is subject to, in addition to the Condominium Instruments, the Master Declaration, as supplemented by Supplemental Declaration. Each Unit Owner, by virtue of ownership of the Unit, in addition to being a member of the Association, shall also be a member of the New Town Commercial Association. Each Unit Owner must pay assessments to the New Town Commercial Association in addition to assessments paid to the Association. The Association shall serve and act as agent for the Unit Owners for purposes of casting the vote of the Lot on which the Condominium is created and the payment of assessments under the Master Declaration. The lien for assessments under the Master Declaration shall be superior to the lien for assessments under this Declaration. To the extent this Declaration conflicts with any provision of the Master Declaration, the Master Declaration shall control except as otherwise required by applicable law.

*[Signature Page to Follow]*

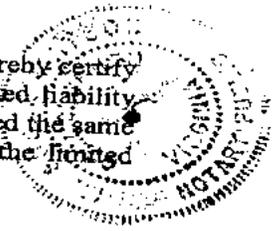
IN WITNESS WHEREOF, the Declarant has executed this Declaration on this 2<sup>nd</sup> day of February, 2007.

GRANITE MOUNTAIN, LLC  
a Virginia limited liability company

By: [Signature]  
Manager

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

I, the undersigned, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Andy Kyles Managing Member of Granite Mountain, LLC, a Virginia limited liability company, whose name as such is signed to the foregoing instrument, has acknowledged the same before me in the County of James City, Virginia, on behalf of the limited liability company.



GIVEN under my hand and seal this 6 day of February, 2007.

[Signature]  
Notary Public

My commission expires: 30 September 2010

1241225-3

EXHIBIT A

(SUBMITTED LAND)

BENNINGTON ON THE PARK, A CONDOMINIUM

ALL that certain lot, piece or parcel of land containing 22,188 Sq. Ft. (0.509 Ac.), with all improvements thereon and appurtenances thereunto belonging, lying, being and situated in the James City County, Virginia and identified as New Town, Section 2 & 4, Block 8, Parcel E, and more particularly described by reference to a certain condominium plat (the "Plat") dated February 2, 2007, prepared by LandTech Resources, Inc., Surveying, Mapping, Land Design, styled "Condominium Plat of Bennington on the Park, A Condominium, Block 8, Parcel E, James City County, Virginia", as follows:

BEGINNING at a point found on the southern right of way line of Center Street, approximately 135 feet west of the intersection with New Town Avenue, thence South  $52^{\circ}17'52''$  West 100.46 feet to a point; thence North  $37^{\circ}42'08''$  West 202.86 feet to a point; thence North  $22^{\circ}17'52''$  East 72.40 feet to a point; thence South  $67^{\circ}42'08''$  East 54.36 feet to a point; thence along a curve to the right having a radius of 79.00 feet and an arc length of 41.36 feet to a point; thence South  $37^{\circ}42'08''$  East 158.26 feet to the point and place of beginning.

EXHIBIT B & C

(PLATS AND PLANS)

BENNINGTON ON THE PARK, A CONDOMINIUM

SEE PLATS AND PLANS RECORDED HERewith

Page 18 of 62

**EXHIBIT D**  
**(PERCENTAGE INTERESTS)**

**BENNINGTON ON THE PARK, A CONDOMINIUM**

Unit Number	Square Footage	Unit Type	Par Value	Percentage Interest
Commercial Unit A	2984		1.4	2.88
Convertible Space	496			0.89
101	1541	D	1.4	2.88
102	1385	B	1.2	2.46
103	1385	B	1.2	2.46
104	1384	B	1.2	2.46
105	1374	C	1.2	2.46
106	1383	B	1.2	2.46
107	932	A	1.0	2.04
201	1541	D	1.4	2.88
202	1385	B	1.2	2.46
203	1385	B	1.2	2.46
204	1374	C	1.2	2.46
205	1385	B	1.2	2.46
206	1442	E	1.2	2.46
207	1285	F	1.2	2.46
208	1385	B	1.2	2.46
209	1385	B	1.2	2.46
210	932	G	1.0	2.04
211	932	G	1.0	2.04
301	1541	D	1.4	2.88
302	1385	B	1.2	2.46
303	1385	B	1.2	2.46
304	1374	C	1.2	2.46
305	1385	B	1.2	2.46
306	1442	E	1.2	2.46
307	1285	F	1.2	2.46
308	1385	B	1.2	2.46
309	1385	B	1.2	2.46
310	932	G	1.0	2.04
311	932	G	1.0	2.04
401	1302	H	1.2	2.46
402	1320	I	1.2	2.46
403	1320	I	1.2	2.46
404	1320	I	1.2	2.46

405	1320	I	1.2	2.46
406	1442	E	1.2	2.46
407	1285	F	1.2	2.46
408	1320	I	1.2	2.46
409	1320	I	1.2	2.46
410	909	J	1.0	2.04
411	909	J	1.0	2.04
<b>TOTAL</b>	<b>55,493</b>		<b>128.00</b>	<b>100%</b>

The actual total % interest may not equal 100% due to rounding. However, for the purposes of this exhibit the total is deemed to equal 100%.

**CC&Rs**

**New Town Commercial Association Inc**

Prepared by:  
Kaufman & Canoles  
1200 Old Colony Lane  
Williamsburg, VA 23185  
and  
McGuireWoods LLP  
One James Center  
Richmond, VA 23219

020031430

AMENDED AND RESTATED  
MASTER DECLARATION OF  
COVENANTS, EASEMENTS AND RESTRICTIONS  
FOR  
NEW TOWN COMMERCIAL PROPERTIES  
WILLIAMSBURG, VIRGINIA

DEC 27 2008 12

Tax Map Nos.  
3840100050  
3840100051  
3840100052

TABLE OF CONTENTS

ARTICLE I: DEFINITIONS	6
ARTICLE II: CHANGES IN PROPERTY; SUPPLEMENTAL DECLARATIONS	10
2.1 Right to Subject Additional Property to Declaration	10
2.2 Deletions of Property	10
2.3 Additional Restriction	11
2.4 No Approval Needed	11
2.5 Master Plan	11
ARTICLE III: USE OF PROPERTY	11
3.1 Permitted Uses	11
3.2 Water Bodies	11
3.3 Rules and Regulations	12
ARTICLE IV: ARCHITECTURAL CONTROL	12
4.1 Architectural Review Board	12
4.2 Plan Approval Required	13
4.3 Submission of Plans	13
4.4 Approval and Disapproval	14
4.5 Compliance with Plans	16
4.6 Liability for Violation	16
4.7 New Town Design Review	16
ARTICLE V: PARKING	17
5.1 Overview	17
5.2 Parking Areas	17
5.3 Ratios and How They Are Met	18
5.4 Maintenance	19
5.5 Rights to Use	19
5.6 Assessments	19
5.7 Transfers and Future Changes	20
5.8 Miscellaneous	20
ARTICLE VI: COMMON AREAS	21
6.1 Obligations of Declarant	21
6.2 Owners' Rights of Enjoyment	21
6.3 Limited Common Areas	21
6.4 Limitations on Owners' Rights	22
6.5 Delegation of Use	23

DEC 27 8 08 13

6.6	Damage or Destruction of Common Area by Owner.....	23
6.7	Rights in Common Areas, Limited Common Areas and Parking Areas Reserved by Declarant.....	23
6.8	Title to Common Area, Limited Common Area and Parking Areas.....	23
ARTICLE VII: ADDITIONAL COVENANTS		23
7.1	Maintenance.....	23
7.2	Landscape Maintenance.....	24
7.3	Compliance; Environmental Protection.....	24
7.4	Damage and Destruction.....	25
7.5	Rezoning.....	25
7.6	Nuisances.....	25
ARTICLE VIII: ADMINISTRATION		25
8.1	Authority.....	25
8.2	Property Owners Association.....	25
8.3	Owners as Members.....	26
8.4	Classes of Membership.....	26
8.5	Sanctions.....	26
8.6	Articles and Bylaws to Govern.....	27
8.7	Dissolution of the Association.....	27
ARTICLE IX: ASSESSMENTS		27
9.1	Covenant for Assessments.....	27
9.2	General Assessments.....	27
9.3	Limited Common Expense Assessments.....	28
9.4	Special Assessments.....	28
9.5	Parking Assessments.....	29
9.6	Calculation of Assessments.....	29
9.7	Liability for Assessments.....	30
9.8	Date of Commencement of General Assessments, Limited Common Expense Assessments and Parking Assessments.....	30
9.9	Remedies in Event of Default.....	31
9.10	Subordination of Lien to Mortgages.....	32
9.11	Exempt Property.....	32
9.12	Transfer Fee.....	32
ARTICLE X: EASEMENTS		32
10.1	Utility Easements.....	32
10.2	Erosion Control.....	33
10.3	Maintenance of Lots.....	33
10.4	Construction Easements and Rights.....	33
10.5	Right of Entry for Governmental Personnel.....	34

DEC 27 2008 14

10.6	Easement for Landscaping, Signs and Related Purposes. ....	34
10.7	Easement for Use of Water Bodies and Irrigation. ....	34
10.8	Easement for Encroachment. ....	34
ARTICLE XI: ENFORCEMENT		35
11.1	Preventive Remedies. ....	35
11.2	Enforcement Rights. ....	36
11.3	Cumulative Remedies. ....	36
11.4	Failure to Enforce Not a Waiver of Rights. ....	36
11.5	Assignment of Rights and Duties. ....	36
11.6	Constructive Notice and Acceptance. ....	37
11.7	Waiver. ....	37
11.8	Chancellor. ....	37
ARTICLE XII: DURATION AND AMENDMENT		37
12.1	Duration of Protective Covenants. ....	37
12.2	Amendment. ....	37
ARTICLE XIII: MISCELLANEOUS		38
13.1	Variance. ....	38
13.2	Effect of Invalidation. ....	38
13.3	Notice. ....	38
13.4	Interpretation. ....	39
13.5	Captions. ....	39
13.6	Run with Land. ....	39
13.7	Governing Law. ....	39

**EXHIBITS**

Exhibit A:	Description of the Property
Exhibit B:	Description of Additional Land
Exhibit C:	Permitted Uses
Exhibit D:	Parking Ratios

DEC 27 8 08 15

**AMENDED AND RESTATED MASTER DECLARATION OF  
COVENANTS, EASEMENTS AND RESTRICTIONS  
FOR  
NEW TOWN  
COMMERCIAL PROPERTIES**

THIS AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS is made and entered into as of November 26, 2002, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company, which is the successor "Declarant" to C.C. Casey Limited Company, a Virginia limited liability company; and **CASEY OFFICE, L.L.C.**, a Virginia limited liability company, and provides:

RECITALS

- A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.
- B. By Deed dated June 23, 2000 and recorded in the Clerk's Office as Instrument No. 000012576, C.C. Casey Limited Company and The College of William and Mary Real Estate Foundation, Inc., a Virginia nonstock corporation, conveyed all of their respective right, title and interest in and to certain of the "Additional Land" shown on Exhibit B of the Original Declaration, such land being the then remaining unsold portion of the "Casey Property (east Side)(38-4)(1-7)" as shown on Exhibit B of the Original Declaration.
- C. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant")
- D. By Deed dated September 26, 2002, and recorded in the Clerk's Office as Instrument No. 020022489, Declarant conveyed to Casey Office, L.L.C. (hereinafter "Casey Office") certain real property as more particularly described in such Deed (hereinafter, the "Casey Office Property"), comprising a portion of the property shown on Exhibit B of the Original Declaration and a portion of the property described in Exhibit A hereto
- E. Article XII, Section 12.2 of the Original Declaration provides that the Original Declaration may be amended "during the Period of Declarant Control [sic], by Declarant".
- F. The Declarant Control Period (as defined in the Original Declaration) has not expired.

DEC27 08 16

G. Declarant contemplates that certain other real estate adjoining the "Property" (as hereinafter defined) will be developed for residential use and, as such, will be subject to a different declaration than this instrument and that owners of lots in such residential development will be members of a separate homeowners association; nonetheless, Declarant contemplates that there will be areas of common concern between the "Property" and such residential development which are addressed, in part, by clause (v) of Section 8.2, Section 11.8 and the last sentence of the definition of "Common Area" herein.

H. Declarant desires to amend and restate the Original Declaration in its entirety as set forth herein.

I. Casey Office desires to subject the Casey Office Property to the covenants, easements, restrictions, liens, charges and other terms and conditions of this Amended and Restated Master Declaration of Covenants, Easements and Restrictions.

NOW, THEREFORE, Declarant hereby amends the Original Declaration by deleting Articles I through XII and the Exhibits thereto in their entirety, and the following Articles I through XIII and Exhibits thereto are hereby substituted therefor. Casey Office, as the owner of Casey Office Property, joins in this Amended and Restated Master Declaration of Covenants, Easements and Restrictions for the purpose of subjecting the Casey Office Property to the covenants, easements, restrictions, liens, charges and other terms and conditions of this Amended and Restated Master Declaration of Covenants, Easements and Restrictions.

#### ARTICLE I: DEFINITIONS

Unless the context otherwise specifies or requires, each term defined in this Article shall, for the purposes of this Declaration, have the meaning indicated below.

"Additional Property" shall have the meaning set forth in Section 2.1.

"Adequate Automobile Parking" shall have the meaning set forth in Section 5.2(b).

"Affiliate of Declarant" means any entity directly or indirectly controlling, controlled by or under common control with Declarant, whether through the ownership of membership or voting securities or by contract, partnership agreement, trust agreement or otherwise.

"Architectural Review Board" shall be as described in Section 4.1(a).

"Assessable Land" means all land within the Property other than the Exempt Property.

"Assessments" means, collectively, the General Assessments, the Limited Common Expense Assessments, the Parking Assessments, the Special Assessments and any applicable Transfer Fee.

"Association" means the property owners association described in Section 8.2.

"Association Board" means the Board of Directors of the Association.

"Attributed Parking Spaces" shall have the meaning set forth in Section 5.2(b).

"Building" shall have the meaning set forth in the building code for James City County, Virginia.

"Clerk's Office" means the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City, Virginia.

"Common Area" or "Common Areas" means and refers to (i) all real property (including the improvements thereto) specifically designated as Common Area on a plat of the Property recorded by Declarant, in any Supplemental Declaration or amendment to this Declaration or in any other instrument executed by Declarant and recorded in the Clerk's Office, (ii) all real property, other than a Lot, now or hereafter owned by the Association and intended to be devoted to the common use and enjoyment of the Members of the Association, and (iii) such easements and rights-of-way granted or assigned to the Association for the common use and enjoyment of the Owners for which the Association has assumed the responsibility for maintenance. At Declarant's option, Common Area may be for the benefit of both the Property and any residential community that is a part of the Additional Property even if such residential community is not subjected to this Declaration.

"Declarant" means New Town Associates, LLC and any successor or assign designated as the "Declarant" in a written instrument recorded in the Clerk's Office or, in the case of any Person succeeding to the Declarant's rights by foreclosure or conveyance in lieu of foreclosure, such Person.

"Declaration" means this Amended and Restated Master Declaration of Covenants, Easements and Restrictions and any amendments or supplements thereto including Supplemental Declarations.

"Development Guidelines" shall have the meaning set forth in Section 4.1(b).

"Exempt Property" shall have the meaning set forth in Section 9.11.

"General Assessments" means the assessments provided for in Section 9.2.

"Governmental Entity" means any federal, state or local legislature, official, judge, administrator, agency, authority, or any other governmental or quasi-governmental entity, agency or official.

"Improvements" means any Buildings, underground installations, slope alterations, lights, roads, driveways, utility facilities and lines, parking areas, fences, satellite dishes, rooftop installations, screening walls and barriers, retaining walls, stairs, decks, windbreaks, plantings, planted trees and shrubs, poles, signs, loading areas and all other Structures or landscaping improvements of every type and kind.

"Laws" means all statutes, laws, orders, rules, regulations, advisories, decisions, ordinances and other directives now or hereafter passed, enacted, promulgated, issued or adopted by any Governmental Entity.

"Limited Common Area" means a portion of the Common Area designated by the Declarant pursuant to Section 6.3 for the use of one or more, but less than all, of the Owners.

"Limited Common Expense Assessment" means the annual assessments provided for in Section 9.3.

"Lot" means a portion of the Property now or hereafter designated as a Lot or parcel of land (other than Common Area) on a recorded plat of subdivision or resubdivision of the Property or on a governmentally approved site plan or, if no plat is recorded, each parcel (other than Common Area) conveyed as a separate parcel of real estate, and includes any Improvements now or hereafter constructed on the Lot.

"Member" means every Person who holds a membership in the Association.

"Mortgage" means a mortgage or deed of trust securing an obligation to a Mortgagee.

"Mortgagee" means any financial institution, Declarant or Affiliate of Declarant holding an obligation secured by a Mortgage.

"New Town Design Guidelines" shall have the meaning set forth in Section 4.7(b).

"New Town Design Review Board" shall have the meaning set forth in Section 4.7(a).

"Occupant" means any Person who occupies and/or who is entitled to use a part of the Property as Owner, lessee or licensee, or in any other capacity other than as the beneficiary of an easement.

"Owner" means the Person(s) who hold(s) fee simple record title to a Lot, but excluding those having such interest merely as security for the performance of an obligation.

"Parking Area" means a portion of the Common Area designated by Declarant pursuant to Section 5.2(a) for parking use by Owners.

"Parking Assessments" means the assessments provided for in Section 5.6.

"Period of Declarant Control" shall have the meaning set forth in Section 3.4(c).

"Permitted Uses" means, with respect to any portion of the Property, the permitted uses applicable thereto as set forth or limited on (i) Exhibit C to this Declaration with regard to that portion of the Property described in Exhibit A, (ii) any Supplemental Declaration with regard to any

DEC 27 2008 19

other portion of the Property hereafter subjected to this Declaration or (iii) in the deed from Declarant to the Owner of such portion of the Property.

"Person" means any natural person, corporation, partnership, trust, limited liability company or other entity.

"Plans" means the plans and other information required to be submitted by an Owner pursuant to Section 4.3.

"Project" means the mixed-use development known as New Town Commercial Properties which includes the Property.

"Property" means the real property described on Exhibit A attached hereto and any other property hereafter subjected to this Declaration.

"Rules and Regulations" means any rules and regulations adopted from time to time by the Association Board to implement the objectives of this Declaration as provided for in Sections 3.3, 6.4, 6.5 and 11.8 and in Article V.

"Special Assessments" means the assessments provided for in Sections 6.6, 8.5, 9.4, 10.2, 10.3 and 11.2.

"Supplemental Declaration" means an instrument recorded by Declarant in the Clerk's Office which (i) subjects additional property to this Declaration and which may contain such other provisions as are provided for in Articles II and III of this Declaration or (ii) accomplishes other purposes as described in this Declaration.

"Structure" shall have the meaning set forth in the definition of the building code for James City County, Virginia.

"Transfer Fee" shall mean the fee described in Section 9.12.

"Utility Easements" shall have the meaning set forth in Section 10.1 of this Declaration.

"Water Bodies" shall have the meaning set forth in Section 3.2 of this Declaration.

"Zoning Ordinance" means any ordinance, regulation or provision enacted by the applicable governing body of James City County, Virginia regulating, restricting, permitting or prohibiting the use of land and the construction of Improvements thereon and, for the purpose of this definition, shall include the conditions and provisions of any conditional use permit affecting any portion of the Property or any other government-controlled or directed process affecting any portion of the Property. Without limiting the generality of the foregoing, "Zoning Ordinance" also includes: (i) the New Town Proffers dated as of December 9, 1997 made by Declarant's predecessor in title, C.C. Casey Limited Company, and accepted by James City County (the "New Town Proffers"), as the same may be amended, modified, supplemented or amended and restated in whole or in part from time to time; and (ii) any other proffers which are applicable to all or any portion of the

DEC 27 2008 20

Property, as the same may be amended, modified, supplemented or amended and restated from time to time. With respect to those certain parcels of land shown and set out as Sections 2 and 4 on the Master Land Use Plan entitled "New Town Plan," prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997, last revised December 8, 1997 (hereinafter referred to as "Sections 2 and 4"), the proffers entitled "New Town - Sections 2 and 4 -- Proffers" dated November 1, 2001, made by Declarant and recorded in the Clerk's Office as Instrument No. 010023715 (the "Sections 2 and 4 Proffers") supercede and amend and restate in their entirety the New Town Proffers, the New Town Master Plan and the New Town Design Guidelines as to Sections 2 and 4. As and when additional parcels of land within the Property and/or the Additional Property are rezoned, it is anticipated that the New Town Proffers will be amended and restated as to each parcel of land rezoned.

## ARTICLE II: CHANGES IN PROPERTY; SUPPLEMENTAL DECLARATIONS

2.1 Right to Subject Additional Property to Declaration. The real estate which is subject to this Declaration as of the date of its recordation in the Clerk's Office is described in Exhibit A hereto. Declarant contemplates the extension of this Declaration to the real estate described in Exhibit B hereto or portions thereof and the possible extension of this Declaration to other real estate owned or subsequently acquired by Declarant or an Affiliate of Declarant and located within a two (2) mile radius of the real estate described in Exhibits A and B (collectively, the "Additional Property"). Each of the additions authorized pursuant to this Section shall be made by Declarant recording in the Clerk's Office a Supplemental Declaration describing the additional property subjected to this Declaration. Each such instrument may also contain such additions, deletions and modifications to the provisions of this Declaration with respect to such additional property as may be desired by Declarant. Notwithstanding the foregoing, Declarant shall not be obligated to bring any such additional property within the scheme of development established by this Declaration, and no negative reciprocal easement shall arise out of this Declaration so as to benefit or bind any such additional property until such additional property is expressly subjected to the provisions of this Declaration in accordance with this Section. The failure of Declarant to extend the provisions of this Declaration to additional property shall not be deemed to prohibit the establishment of a separate scheme of development (including provisions substantially similar or identical to those contained herein) for such additional property to which this Declaration is not extended.

2.2 Deletions of Property. Declarant reserves the right, at its discretion, at such time or times as it shall determine, to remove from the provisions of this Declaration any portion of the Property (other than Parking Areas) then owned by Declarant or an Affiliate of Declarant or, if owned by any Person other than Declarant or an Affiliate of Declarant, if the removal is with the consent of such Person and Declarant. Any deletion made by Declarant pursuant to this Section shall be made by Declarant recording in the Clerk's Office a Supplemental Declaration describing the portion of the Property removed from this Declaration. From and after the date any such Supplemental Declaration is so recorded, the portion of the Property described in such Supplemental Declaration shall be free and clear of this Declaration and all of the terms, covenants and restrictions contained herein.

DEC 27 2008 08 21

2.3 Additional Restriction. Declarant may, in its discretion, from time to time execute and record one or more Supplemental Declarations for the purpose of establishing certain additional or different covenants, easements and restrictions (including without limitation a different level of assessments) applicable to a specific portion of the Property then owned by Declarant or an Affiliate of Declarant and to be developed for a specific type of use. However, no negative reciprocal easement shall arise out of any such Supplemental Declaration so as to bind any portion of the Property not expressly subjected thereto, and no Supplemental Declaration may reduce the number of Attributed Parking Spaces provided to an Owner in the Parking Area without the Owner's written consent.

2.4 No Approval Needed. The exercise of Declarant's rights under Sections 2.1, 2.2 and 2.3 is not conditioned upon or subject to the approval of other Owners (except as expressly described in Section 12.2) and therefore the requirements set forth in Section 12.2 for amendments to this Declaration shall be inapplicable to Sections 2.1, 2.2 and 2.3 of this Declaration.

2.5 Master Plan. The existence of a master plan for the Property as part of the Zoning Ordinance or otherwise shall not be deemed to constitute a representation by Declarant that the real estate shown thereon shall be developed as depicted on the master plan, and the master plan may be amended from time to time in the sole discretion of Declarant with the consent (to the extent required) of James City County, Virginia.

### ARTICLE III USE OF PROPERTY

3.1 Permitted Uses. No portion of the Property shall be used for any purpose other than applicable Permitted Uses and uses accessory thereto.

#### 3.2 Water Bodies.

(a) Uses. The lakes, ponds, marshes and streams within or adjoining the Property (whether one or more, the "Water Bodies") are principally for use as aesthetic amenities, surface storm water management and conveyance and Declarant's uses, including without limitation those described in Section 10.7 of this Declaration. Owners of Lots which front on Water Bodies shall not have any riparian rights appurtenant to their Lots, and such Owners' rights with respect to the use of Water Bodies which are Common Areas shall be no greater than the rights of any other Owners. No Owner, without the prior approval of the Declarant during the Period of Declarant Control and, thereafter, without the prior approval of the Association Board, shall: construct or maintain any pier, dock or other structure in or affecting any Water Bodies; take any water from Water Bodies for irrigation or otherwise; dam, riprap or change the banks, contours or vegetation of Water Bodies; cause silt, trash or debris to be released into Water Bodies; cause chemicals, wastes or other potentially harmful substances or pollutants to be deposited or released into Water Bodies; decrease or disturb the flow of water into or out of Water Bodies; or install or maintain any drainage ditches, pipes or other facilities to drain surface water into Water Bodies. Any recreational use of the Water Bodies in the Common Areas shall be only with the prior approval of the Association Board and in accordance with the Rules and Regulations; otherwise, recreational use of the Water Bodies is prohibited.

(b) No Liability. To the full extent permitted by law, neither Declarant nor the Association shall be responsible or liable for loss, damage or injury to any person or property arising out of (i) use of the Water Bodies, whether authorized or not, or (ii) the rise, flow or absence of water in or around the Water Bodies.

3.3 Rules and Regulations. From time to time the Association Board may adopt Rules and Regulations to implement the objectives of this Declaration, including but not limited to rules to regulate potential problems relating to the use of Property and the enjoyment of such Property by Members and others such as, for example but without limitation, rules governing the parking and storage of vehicles, loading areas, and trash receptacle placement, street vendors, use of sidewalks, the assignment of parking spaces within the Common Areas, Limited Common Areas and Parking Areas, storage and use of machinery, antennas, trash and trash containers, restrictions on sprinkler and irrigation systems, private irrigation wells, maintenance and removal of vegetation on the Property, and the definition of nuisances (collectively, the "Rules and Regulations"). All such Rules and Regulations and any subsequent amendments thereto shall be binding on all Members and Occupants, their guests and invitees, except where expressly provided otherwise in such Rules and Regulations. Such Rules and Regulations as adopted from time to time are herein incorporated by reference and shall be as binding as if set forth herein in full; however, in the event of a conflict between any provisions in the Rules and Regulations and this Declaration, the provisions of this Declaration shall control.

#### ARTICLE IV: ARCHITECTURAL CONTROL.

##### 4.1 Architectural Review Board.

(a) Appointment; Rights. Declarant shall appoint an Architectural Review Board to review and, as appropriate, approve or disapprove Plans submitted by Owners in accordance with this Article. The Architectural Review Board shall consist of three persons, at least one of whom shall have architectural or building design experience. The right to appoint and remove all members of the Architectural Review Board shall be and is hereby vested solely in Declarant so long as it owns any portion of the Property and the Additional Property. After Declarant no longer owns any portion of the Property or the Additional Property or at such earlier date as Declarant may elect, the right to appoint the members of the Architectural Review Board shall vest in the Association Board. The members of the Architectural Review Board shall serve for such terms as Declarant or the Association Board, depending on who appoints the members, shall determine. If Declarant does not appoint an Architectural Review Board and does not cede the right of appointment to the Association Board, the duties and rights in this Declaration which are to be performed or are exercisable by the Architectural Review Board shall be performed or exercised by Declarant.

(b) Development Guidelines. The Architectural Review Board shall have the authority to promulgate development guidelines ("Development Guidelines") designed to implement the purpose and objectives of this Declaration. The Development Guidelines shall be consistent with the provisions of this Declaration and the Zoning Ordinance. The Development Guidelines may be amended from time to time by the Architectural Review Board in its sole discretion. Copies of the Development Guidelines and any amendments thereof shall be

provided by the Architectural Review Board to each Owner upon request. Nothing contained in the Development Guidelines in effect from time to time shall be deemed to create or imply a negative reciprocal easement or covenant in favor of any Person or as to any portion of the Property.

(c) Other Responsibilities. In addition to the responsibilities provided in this Article, the Architectural Review Board shall have such other rights, authority and responsibilities as may be provided elsewhere in this Declaration or in any Supplemental Declaration.

4.2 Plan Approval Required. No Improvement shall be constructed, erected, used, placed, altered, repainted a different color, added to, maintained or permitted to remain on the Property until the Plans therefor shall have been submitted to and approved in writing by the Architectural Review Board as provided in this Article; provided however, that these approval requirements shall not apply to Declarant or an Affiliate of Declarant with respect to (i) development of Common Areas, Limited Common Areas and Parking Areas, (ii) the installation of streets, walkways, utilities and other public facilities to serve the Property or (iii) any improvements under construction by Declarant as of the date hereof or for which on the date hereof Declarant has submitted building plans to, or received a building permit from, the applicable Governmental Entity. No Owner shall submit Plans and/or an application for approval to the "New Town Design Review Board" (as hereinafter defined) unless (i) such Owner has received written approval of the preliminary plans from the Architectural Review Board pursuant to Section 4.3(b) or (ii) such Plans are exempt from review by the Architectural Review Board pursuant to this Section 4.2

4.3 Submission of Plans.

(a) Required Submissions. The Owner or his designated representative shall prepare and submit to the Architectural Review Board preliminary and final Plans as set forth below.

(b) Preliminary Plans. For its preliminary submission, the Owner or his designated representative shall submit at least the following: (i) a site plan and schematic design of area proposed for immediate development which is consistent with the overall plan of development depicted on the Master Plan and which shows the location of all Improvements, easements, street rights-of-way, set-back lines, walks, parking areas, off-street loading areas, driveways and outside storage areas; (ii) building elevation drawings of each building face; and (iii) a description of the proposed uses.

(c) Final Plans. After the Architectural Review Board has approved an Owner's preliminary submission, the Owner or his designated representative shall prepare and submit to the Architectural Review Board such Owner's proposed final Plans including detailed information in writing regarding the proposed use of the Lot, copies of all applications for permits and any accompanying correspondence, site plans, erosion and sedimentation control plans and other plans to be submitted for governmental approval, three (3) full sets of final construction drawings and specifications showing or stating all aspects of the proposed development and such other information as the Architectural Review Board, in its discretion, shall require. The final construction drawings and specifications shall include, without limitation, the following:

DEC 27 8 08 24

(i) location of all Structures, casements, street rights-of-way, set-back lines, walks, driveways and curblines;

(ii) layout and location of all parking areas (including location and dimensions of all spaces, circulation aisles, curbs and bumpers), off-street loading areas and all outside storage areas including identification and size of the material to be stored and location and dimensions of all fencing and screening;

(iii) all landscaping, including location, height, spread, type and number of trees and shrubs, location and type of all ground cover and lawn material, existing trees and limits of clearing and grading and irrigation system together with plans for the preservation of trees and a detailed description of the methods the Owner will employ to ensure protection of trees during construction;

(iv) location, height, intensity and fixture type of all exterior lighting;

(v) location, size and type of all pipes, lines, conduits and appurtenant equipment and facilities for the transmission of sanitary sewage, storm water, potable water and other utility services;

(vi) location, size and type of all fencing;

(vii) architectural floor plans, building elevations, wall sections and details of each building, exterior building material and color information, including samples;

(viii) temporary construction sign design and permanent sign design;

(ix) site coverage data and calculations, parking data and calculations, including base data for projected needs and site drainage data and calculations including finished contour lines and spot elevations;

(x) a certification by the applicant that the proposed final Plans comply with the New Town Design Guidelines;

(xi) a certification by a licensed architect or engineer as to the amount of "Gross Building Square Footage" of each Building and the "Assessable Square Footage" on the Lot (as defined in Section 9.6(a) below); and

(xii) such other data as may be specified in the Development Guidelines or required by the Architectural Review Board.

#### 4.4 Approval and Disapproval.

(a) Standards. The Architectural Review Board shall have the right to disapprove the Plans submitted to it if (i) they are not in accordance with this Declaration or the Development Guidelines, (ii) they are incomplete or (iii) the Architectural Review Board determines, in its sole discretion, that the Plans and such specifications or details, or any part thereof, are contrary to the

DEC 27 2008 08 25

best interests of the Property and the other Owners. In this connection, the Architectural Review Board may base its approval or disapproval on, among other things, the architectural design concept, the adequacy of Lot dimensions, conformity and harmony of external design with neighboring Lots and types of operations and uses thereof, relation to topography, grade and finished ground elevation of the Lot being improved to that of neighboring Lots, proper facing of main elevation with respect to nearby streets, conformity to the overall plans for the development of the Project, conformity of the Plans to the purpose and general plan and intent of this Declaration and such other factors as the Architectural Review Board, in its sole discretion, deems relevant. The foregoing notwithstanding, nothing in this Declaration shall require the Architectural Review Board to approve any Plans for Improvements on a Lot on the grounds that the layout, design or other aspects of such Improvements are the same or substantially the same as the layout, design or other aspects of Improvements approved for another Lot.

(b) Statement of Reasons for Disapproval. In any case where the Architectural Review Board shall disapprove any Plans submitted hereunder or shall approve the same only as modified or upon specified conditions, notice of such disapproval or qualified approval shall be given to the Owner submitting such Plans within forty-five (45) days after the Architectural Review Board declares the submission complete by written notice to the Owner, and such notice of disapproval or qualified approval shall be accompanied by a statement of the specific reasons therefor.

(c) Time for Approval. The Architectural Review Board shall not be required to review any Plans unless and until the submitted Plans contain all the items required by this Article V, and such 45-day review period shall not commence until the Architectural Review Board declares the submission complete by written notice to the Owner. If the Architectural Review Board fails to approve, disapprove or request any additions or supplemental information relating to, any preliminary or final Plans within forty-five (45) days after the Architectural Review Board declares the submission complete by written notice to the Owner, then such Plans shall be deemed to have been approved, but only to the extent that such Plans comply with the Development Guidelines and the New Town Design Guidelines.

(d) Expiration of Approval. If work is not commenced within twelve months from the date the Architectural Review Board approves the Plans for such work, then such approval shall be deemed revoked by the Architectural Review Board unless the Architectural Review Board, in its sole discretion, extends the time for commencing work. All work covered by such approval shall be completed within two years after the commencement thereof, except for such period of time as such completion is rendered impossible or would result in great hardship due to strikes, fires, national emergencies, critical materials shortages or other intervening forces beyond the control of the Owner or Occupant, unless the Architectural Review Board, in its sole discretion, extends the time for completion. For the purposes of this Declaration, work on an Improvement shall be deemed to have "commenced" when the Improvement site has been graded and, in the case of Buildings, footings or foundations have been poured or otherwise installed.

(e) Limitation of Liability. The approval by the Architectural Review Board of any Plans, and any requirement by the Architectural Review Board that the Plans be modified, shall not constitute a warranty or representation by the Architectural Review Board of the adequacy, technical sufficiency or safety of the Improvements described in such Plans, as the same may be

modified, and the Architectural Review Board shall have no liability whatsoever for the failure of the Plans or the Improvements to comply with applicable Laws or to comply with sound engineering, architectural or construction practices. In addition, in no event shall Declarant or the Architectural Review Board or its members or any agent of either of the foregoing have any liability whatsoever to an Owner, a contractor or any other Person for any costs or damages (consequential or otherwise) that may be incurred or suffered on account of the Architectural Review Board's approval, disapproval or conditional approval of any Plans or the granting of any variance or for any defects in any work performed according to any approved Plans.

(f) Costs. If the Architectural Review Board has the Plans reviewed by an architect or other design professional (including, without limitation, a member of the Architectural Review Board who is an architect or other design professional), then the Owner submitting such Plans for approval shall pay the reasonable costs incurred by the Architectural Review Board in obtaining such professional review.

4.5 Compliance with Plans. After approval by the Architectural Review Board of the Plans for an Improvement, such Improvement shall be constructed, erected, maintained, altered or enlarged strictly in accordance with the approved Plans. No construction that is inconsistent with, in addition to, or different from the approved Plans shall be commenced or permitted until Plans reflecting such change or addition have been submitted to and approved by the Architectural Review Board in accordance with this Article.

4.6 Liability for Violation. Any Person violating any provisions of this Article shall be liable for all costs incurred by the Declarant or the Architectural Review Board or any other Person who seeks to enjoin or otherwise remedy such violations, including, but not limited to, attorney's fees and court costs.

4.7 New Town Design Review.

(a) New Town Design Review Board. In addition to obtaining the approval of the Architectural Review Board as required in this Article IV, each Owner must obtain the approval of the "New Town Design Review Board," a separate board established pursuant to the New Town Proffers (as defined in the definition of "Zoning Ordinance"), with respect to all subdivision plats, site plans, landscaping plans, architectural plans and elevations and other development plans for such Owner's Lot. The procedures for such design review process are set forth in the New Town Proffers and the rules adopted by the New Town Design Review Board pursuant thereto.

(b) New Town Design Guidelines. The New Town Proffers provide for and incorporate by reference a set of Design Guidelines prepared by Cooper, Robertson & Partners dated September 3, 1997 and revised December 8, 1997 (as the same may be further amended, supplemented or amended and restated in whole or in part from time to time, the "New Town Design Guidelines). All Property and the Additional Property is subject to the New Town Design Guidelines; however, when a portion of the Property or the Additional Property is rezoned, Owners seeking to rezone such portion to a "Mixed Use" zoning designation, must submit to the New Town Design Review Board for its approval, supplemental and/or amended and restated design guidelines applicable to the portion of the Property or the Additional Property

DEC 27 08 27

then being rezoned to be used by the New Town Design Review Board and James City County in reviewing, approving or disapproving site development and construction plans for the development of such property. With respect to Sections 2 and 4 of New Town, the design guidelines entitled, "New Town Sections 2 and 4 Design Guidelines" James City County, Virginia," dated June 21, 2001, and as the same may have been amended and supplemented at the time of reference, amend and restate and supercede the New Town Design Guidelines.

## ARTICLE V: PARKING

5.1 Overview. Most of the parking within Sections 2 and 4 of New Town Commercial Properties will be provided through centralized, shared parking located within designated Parking Areas. When a Lot is purchased, Declarant and Owner will assess the Owner's likely parking needs as required by the Zoning Ordinance and this Declaration, which is referred to in this Declaration as "Adequate Automobile Parking." The Owner will be given credit for on-street parking adjacent to its Lot and the balance of the Adequate Automobile Parking will be met in one or more of three ways: (i) the Owner can provide for some or all of the parking on its own Lot, (ii) the Owner can share parking with another Owner on their Lots or (iii) most Owners will use the centralized Parking Areas maintained by the Association. The Declarant will construct a number of center-block parking lots and convey these to the Association. The Declarant will be provided with the rights to all of the parking spaces in these Parking Areas, and as the Declarant sells Lots, it will assign an appropriate number of these spaces to each Owner. The Association will maintain the Parking Areas and assess the benefited Owners based on the number of Attributed Parking Spaces they have in the Parking Areas.

### 5.2 Parking Areas.

(a) Construction. Portions of the Property owned by the Association will be constructed as parking lots, or will have appropriate contractual arrangements for such construction, meeting all applicable approval, permitting and regulatory requirements ("Parking Areas"). Declarant shall be responsible for constructing the Parking Areas. Declarant or the benefited Owners may construct subsequent expansions with the approval of the Association Board. In any event, the Association shall have no obligation to construct any parking lot or area.

(b) Attributed Parking Spaces. Upon the conveyance of a fully constructed Parking Area to the Association or the completion of construction of a Parking Area on property already conveyed to the Association, the Declarant shall be allocated the use of all of the parking spaces in the Parking Area. Simultaneously with the initial purchase of a Lot, the Owner and Declarant shall identify the number of parking spaces from the Parking Area needed for the intended use of the Lot. Declarant shall notify the Association, and the requested number of spaces shall be transferred from Declarant and thereafter attributed to the identified Lot (the "Attributed Parking Spaces"). Such attribution may occur before or after construction of the Parking Area, but the Association shall have no obligation to furnish any parking space until the Association has been provided the constructed Parking Area containing such parking space. The initial transfer of spaces from Declarant and attribution of such spaces to an identified Lot shall be reflected in an instrument in recordable form executed by Declarant and, if record title to such Lot is held by other than Declarant, the record owner of such Lot, and recorded in the Clerk's Office. The

DEC 27 2008 08 28

subsequent transfer of all or a portion of Attributed Parking Spaces previously attributed to a particular Lot shall be subject to the provisions of Section 5.7 below and shall be reflected in an instrument in recordable form executed by the party transferring or assigning the Attributed Parking Spaces and the Association (to acknowledge the transfer or assignment) and recorded in the Clerk's Office.

(c) Designated Spaces. In general, spaces shall not be designated or specifically assigned for non-public use because such designation reduces parking efficiency. However, the Declarant or the Association Board may elect to designate certain parking spaces for the use of specific Owner(s) or Occupant(s). In any event, designated spaces for a Lot within a Parking Area shall not exceed the number of Attributed Parking Spaces for such Lot.

(d) Temporal Sharing. Some Parking Areas may be utilized by Owners having the right to use parking spaces only at certain times of the day. For example, a cinema or evening restaurant may be given the authority to use Parking Areas in the evenings, when many of the office parkers have left. Upon obtaining any necessary review and approval required under the Zoning Ordinance and obtaining the approval of the Association Board, an Owner may obtain Attributed Parking Spaces that have been or will be attributed to other users as well, when the time period for such uses do not in the opinion of the Association Board materially overlap. An Owner may obtain a mix of temporally shared spaces ("Attributed Parking Spaces (TS)") and regular Attributed Parking Spaces. When an Owner has obtained Attributed Parking Spaces (TS), the time periods for use of such spaces shall be set by the Association Board. The Owner shall have the responsibility to confirm that its temporally shared spaces will meet the requirements for Adequate Automobile Parking. The Association Board may, for purposes of calculating the Parking Assessment, designate each Attributed Parking Space (TS) as a fraction of an Attributed Parking Space provided that such fraction shall not be less than 50%.

DEC 27 2008 08 29

### 5.3 Ratios and How They Are Met.

(a) Initial Arrangements. As Declarant conveys each Lot to an Owner, Declarant shall make arrangements for Adequate Automobile Parking for such Lot, taking into account the intended use and the planned size of the Improvements. "Adequate Automobile Parking" shall be initially (i) the parking for the use agreed upon between the Declarant and the initial Owner and, (ii) after construction of the Improvements, the parking for the use then being conducted on such Lot, all in accordance with the Zoning Ordinance and the ratios set forth on Exhibit D (if there is an inconsistency between such requirements, then the requirement calling for more parking shall apply). On-street parking spaces immediately adjacent to the Lot may be credited toward meeting the Exhibit D ratio requirements and, to the extent allowed by the Zoning Ordinance, toward meeting the Zoning Ordinance requirements as well. Any questions regarding the number of on-street spaces (such as allocation of on-street parking spaces split by property lines) not answered by the Zoning Ordinance will be resolved by the Association Board. The balance of the Adequate Automobile Parking shall be provided through one or more of the three means described in Section 5.1. All parking areas on Lots shall be subject to the review and approval procedures referred to in Article IV for the construction or modification of Structures.

(b) Subsequent Arrangements. No use or activity shall be conducted on any Lot that does not have Adequate Automobile Parking for such use or activity. Each Owner shall

continuously provide Adequate Automobile Parking for the Owner's Lot in the event of changes in the uses of the Lot or changes in the requirements of the Zoning Ordinance and in compliance with the Exhibit D ratios; provided however, that the Exhibit D parking ratios shall not be increased without the consent of Declarant and all Owners.

5.4 Maintenance. The Association shall maintain the Parking Areas including, without limitation, the lighting, landscaping, surface, striping, drainage and directional signs, to the standards typically associated with commercial use parking areas. The Association shall keep such areas clean and appropriately repaired and shall replace damaged or worn portions accordingly. In the event that the Association, after appropriate notice to the Association of a condition needing repair, fails to so maintain the Parking Area, then following not less than 45 days notice to the Association of intent to do so, any group of Owners constituting not less than two-thirds of the Attributed Parking Spaces for the particular Parking Area requiring repair, may conduct the necessary repair and seek reimbursement from the Association. Any reimbursement determined to be appropriate and made by the Association may become part of the Parking Assessment made pursuant to Section 5.5 below.

The Association shall have the authority to postpone maintenance, repair or replacement until the same can be appropriately paid for through the Parking Assessments.

5.5 Rights to Use. Parking Areas are intended for the use of the employees, patrons and invitees of nearby businesses, but because such Parking Areas will not be gated, except as contemplated by Section 5.2(c) above, all Owners, their employees, patrons and invitees shall have access to all Parking Areas. The total number of parking spaces on the Property will meet the Zoning Ordinance requirements. Notwithstanding the foregoing, the Parking Areas may be conveyed to the Association subject to a general easement to utilize the Parking Areas to park a number of cars equal to the total number of Attributed Parking Spaces on such Parking Areas. Such easement will not have any effect whatsoever so long as the Association owns the Parking Areas in accordance with this Declaration. Additionally, Declarant shall have the easement and right, at any time during the Period of Declarant Control, to enter upon a Parking Area and construct additional structures for parking automobiles as part of the Parking Area, provided that Declarant holds the Association harmless from all costs and liabilities associated with such undertaking and implements reasonable measures to provide for temporary replacement parking.

5.6 Assessments. An Owner shall be assessed for its portion of the costs of the Parking Areas based upon a fraction, the numerator of which is such Owner's Attributed Parking Spaces and Attributed Parking Spaces (TS) and the denominator of which is the number of Attributed Parking Spaces and Attributed Parking Spaces (TS) for which Parking Assessments may be levied pursuant to Section 9.8(d) and 9.11. Such costs shall include all costs, expenses and liabilities associated with the operation of the Parking Areas including without limitation the costs of maintenance, repair, replacement, improvement, lighting, removal of snow or ice, striping, maintaining insurance, maintaining security personnel or attendants, real estate taxes and administration costs. While the formula shall be adjusted by the Association Board as it deems appropriate, in general the formula for calculation of the assessments for Parking Areas should be as follows:

DEC 27 08 30

A is an Owner with Q Attributed Parking Spaces. Z = total number of Attributed Parking Spaces and Attributed Parking Spaces (TS) for which Parking Assessments may be levied (because Z may include Attributed Parking Spaces (TS) as fractions of Attributed Parking Spaces, Z may exceed the actual number of parking spaces in the Parking Area). T = annual cost of maintaining the Parking Area.

A's assessment equals the product of Q/Z multiplied by T.

Parking Assessments are also subject to Sections 9.5, 9.8(d) and 9.11 of this Declaration. The Association may assess one or more Parking Areas separately from the others if it deems such assessment appropriate, and the denominator for the assessment formula shall be adjusted accordingly.

Upon the conveyance of a Parking Area to the Association, the Declarant shall be assessed for all Parking Assessments except (i) to the extent Attributed Parking Spaces have been designated for a Lot and the obligation of the Owner of the Lot to pay Parking Assessments has commenced and (ii) to the extent such assessments include any reserves beyond the actual costs of maintenance and repair. When Declarant has conveyed all Attributed Parking Spaces to Owners, Declarant shall have no further liability for Parking Assessments.

5.7 Transfers and Future Changes. If an Owner transfers a Lot, the Attributed Parking Spaces and Attributed Parking Spaces (TS) for such Lot shall benefit the new Owner. The number of Attributed Parking Spaces and Attributed Parking Spaces (TS) assigned to a Lot cannot be increased or decreased without consent of the Association Board and, during the Period of Developer Control, the Declarant. The Association shall have no obligation to maintain a reserve of parking spaces nor in any way be obligated to furnish an Owner with parking other than the Attributed Parking Spaces and Attributed Parking Spaces (TS). Nonetheless, if it determines it appropriate, the Association may maintain a parking space reserve (designated or undesignated) conveyed to it by Declarant or by another Owner, and the costs of maintaining such reserve may be spread among the Owners with Attributed Parking Spaces and Attributed Parking Spaces (TS) for which Parking Assessments may be levied.

5.8 Miscellaneous.

(a) Rules and Regulations. Pursuant to Section 3.3, the Association Board has the power and authority to adopt Rules and Regulations including, without limitation, Rules and Regulations concerning parking within the Property. Such Rules and Regulations shall not cause a reduction in the number of Attributed Parking Spaces within the Parking Areas. To the extent permitted by the appropriate governmental regulatory bodies, the Association Board may seek to adjust parking spaces on the streets or create special arrangements for evening permit parking, but in so doing the Association Board shall not cause the elimination of on-street parking that is counted toward an Owner's satisfaction of Adequate Automobile Parking.

(b) Liability and Towing. In the operation of Parking Areas, the Association assumes no liability, and through their purchase of Lots, Owners agree to the full extent permitted by law that the Association and Declarant shall have no liability to them, for property damage or personal injury, theft or any other matter occurring in or around the Parking Areas. All use of the

DEC 27 2008 3 1

Parking Areas is at the risk of the user. The Association shall have the right to cause vehicles parked on any Common Area, Limited Common Area, Parking Area or private street within the Property in violation of the Rules and Regulations to be removed by towing or otherwise to a licensed garage for storage until called for by the owner of the vehicle or his agent. Such removal and storage shall be at the cost of the vehicle's owner. The Association shall have the authority to employ security personnel or parking attendants it deems appropriate and to post such signage as it deems necessary for operation of the Parking Area or other parking areas.

(c) Loading and Support Facilities. The Association shall have no obligation to provide loading areas or areas for waste or recycling pickup or any other support facilities other than those constructed and conveyed to it by Declarant, and the Association shall not have an obligation to provide or arrange any services in connection with such facilities.

## ARTICLE VI: COMMON AREAS

6.1 Obligations of Declarant. Declarant, or the Association after such time as (i) Declarant has designated the Common Area (including without limitation the Limited Common Area) as provided in Section 6.8 below, or (ii) Declarant has conveyed the Common Area (including without limitation the Limited Common Area) to the Association, subject to the rights of the Owners as set forth in this Declaration; shall be responsible for the maintenance, management, operation and control of the Common Areas and Limited Common Areas (except for such portions thereof as are the responsibility of Owners as hereinafter set forth) and all Improvements thereon (including fixtures, personal property and equipment related thereto) and shall keep the same in good, clean and attractive condition, order and state of repair.

6.2 Owners' Rights of Enjoyment. Subject to the provisions of this Declaration and the Articles of Incorporation (as they may be amended and restated) and Bylaws and except to the extent limited by the designation of "Limited Common Area" or designation of parking spaces for the use of particular Owners or Occupants, every Owner shall have an easement in and a right of enjoyment in and to the Common Areas for their intended purposes, which easement and right shall be appurtenant to and shall pass with the title to every Lot.

6.3 Limited Common Areas. Declarant shall have the power, for so long as Declarant has the right to add Additional Property under Section 2.1 hereof, to restrict portions of the Common Area for the use of a specific Owner or Owners, and their respective Occupants, customers, guests and invitees, by designating such portions of Common Area as "Limited Common Area."

Developer may either: (i) indicate the locations of the Limited Common Area appertaining to one or more Lots by depicting such Limited Common Area and the Lot(s) to which it is appurtenant on a plat attached to or recorded with a Supplemental Declaration; (ii) label a portion of the Common Area as "Common Area that may be assigned as Limited Common Area" on a plat attached as an exhibit to the applicable Supplemental Declaration and thereafter assign such Limited Common Area or Limited Parking Area to one or more specific Lots by Supplemental Declaration to indicate the assignment and the Limited Common Area being assigned and the Lots

DEC 27 2008 08 32

to which it is appurtenant; or (iii) indicate that such Common Area is Limited Common Area by a description in a Supplemental Declaration.

The designation of parking spaces for the use of specific Owner(s) or Occupant(s) shall not result in that designated Parking Area being deemed a Limited Common Area.

6.4 Limitations on Owners' Rights. Owners' easements and rights of enjoyment in the Common Areas (including without limitation the Limited Common Areas or Parking Areas) shall be subject to the following:

(i) the right of Declarant or the Association Board to establish reasonable Rules and Regulations for the use of the Common Areas, the Limited Common Areas and Parking Areas;

(ii) the right of Declarant or the Association Board, following notice to the delinquent Owner and opportunity for a hearing, to suspend the right of an Owner to use or benefit from any of the Common Areas, the Limited Common Areas or Parking Area for any period during which such Owner has failed to pay when due any Assessment payable by such Owner under this Declaration;

(iii) the right of Declarant or the Association Board, following notice to the violating Owner and opportunity for a hearing, to suspend the right of an Owner to use or benefit from any of the Common Areas, the Limited Common Areas or Parking Area during any period during which any other violation by the Owner of this Declaration or the Rules and Regulations remains uncorrected after the last day of the period established for correction by Declarant or the Association (such period to be stated in a notice to the Owner together with a statement of the violation complained of and the required manner of its correction);

(iv) the right of Declarant or the Association to mortgage any or all of the Common Areas and the Limited Common Areas for any purpose; provided however, that the rights of Owners to the Attributed Parking Spaces and the rights and easements set forth in Article 5 hereof shall not be disturbed or subordinated;

(v) the right of Declarant or the Association Board to grant or assign Utility Easements or other easements across the Common Areas, the Limited Common Areas and the Parking Areas as provided in Article X hereof;

(vi) the right of Declarant or the Association Board to dedicate or transfer all or any part of the Common Areas and the Limited Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be desired by Declarant or the Association Board; and

(vii) all of the other easements, covenants and restrictions provided for in this Declaration or in any Supplemental Declaration and applicable to the Common Areas, the Limited Common Areas and Parking Areas.

DEC 27 2008 08:33

6.5 Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Area, the Limited Common Area or the Parking Area to any Occupants of his Lot and to his customers, invitees or guests, subject to the terms of this Declaration and any Rules and Regulations established from time to time.

6.6 Damage or Destruction of Common Area by Owner. If any Common Area (including without limitation, Limited Common Area or Parking Area) or Improvement thereon or any facility owned by the Association is damaged or destroyed by an Owner or an Occupant of a Lot, or by either of their agents, and the Owner of the Lot does not repair such damage within fifteen (15) days after its occurrence in a good and workmanlike manner and restore such Common Area, Limited Common Area, Parking Area Improvement or facility to its existing state preceding such damage or destruction, then Declarant or the Association may repair such damage at the Owner's expense. The cost of such repairs shall become a Special Assessment upon the Lot of such Owner and shall constitute a lien upon such Owner's Lot and be collectible in the same manner as other Assessments set forth herein.

6.7 Rights in Common Areas, Limited Common Areas and Parking Areas Reserved by Declarant. Until such time as Declarant conveys a Common Area, a Limited Common Area or a Parking Area to the Association, Declarant shall have the right as to that Common Area, Limited Common Area or Parking Area, but not the obligation, (i) to construct such Improvements thereon as it deems appropriate for the common use and enjoyment of Owners; and (ii) to use the Common Area, Limited Common Area or Parking Area for other purposes not inconsistent with the provisions of this Declaration (including, without limitation, for a marketing or sales office, construction control center or hospitality center); provided however, that such Improvements or use do not reduce Attributed Parking Spaces.

6.8 Title to Common Area, Limited Common Area and Parking Areas. Declarant shall convey each Common Area, Limited Common Area and Parking Area to the Association, free and clear of all liens but subject to this Declaration and all other easements, conditions and restrictions of record; provided however, that Declarant may continue to hold title to Common Area, Limited Common Area or Parking Areas for up to two (2) years after the date the improvements thereto are completed. Regardless of whether the Common Areas, Limited Common Areas or Parking Areas have actually been conveyed to the Association, but subject to the foregoing sentence of this Section, Owners and the Association shall have all the rights and obligations imposed by this Declaration, any Supplemental Declaration, and the Articles of Incorporation (as they may be amended and restated) and the Bylaws of the Association from and after the date such Common Areas, Limited Common Areas and Parking Areas are designated as such by recordation of an appropriate instrument in the Clerk's Office. The Association shall be liable from the date such Common Areas, Limited Common Areas and Parking Areas are so designated for payment of insurance, maintenance and other costs with respect thereto.

#### ARTICLE VII: ADDITIONAL COVENANTS

7.1 Maintenance. No Improvement on the Property shall be permitted by its Owner or Occupant to fall into disrepair, and each such Improvement shall at all times be kept in neat,

clean and good condition and repair, properly maintained and adequately painted or otherwise finished, clean and safe and in compliance with all Laws. All asphalt or concrete paved surfaces shall be resurfaced or sealed and striped as needed, and all potholes shall be promptly repaired. Unimproved Lots shall be maintained in reasonably neat condition, free of debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, except in approved waste containers in screened areas in locations at the rear or sides of Improvements and as shown on the Plans approved by the Architectural Review Board.

7.2 Landscape Maintenance. All landscaping on each Lot, including landscaping located within any easements reserved by Declarant for such purpose, shall be properly maintained by the Owner of the Lot, which maintenance shall include all necessary cutting, irrigation, fertilizing, aerating, spraying, pruning and required replacements. Dead or damaged planting material shall be promptly replaced. Each Owner shall be responsible for proper drainage from its Lot.

7.3 Compliance; Environmental Protection.

(a) Compliance. Each Owner shall comply with all Laws applicable to such Owner's Lot and the Improvements thereon.

(b) Environmental Compliance. In addition to and without limiting the terms of the previous paragraph, Owners and Occupants shall comply with all Laws relating to the discharge, storage and disposal of all hazardous or toxic wastes and substances, petroleum, petroleum by-products and other environmental contaminants (as any of the foregoing may now or in the future be defined by any Governmental Entity) on, at or from such Owner or Occupant's Lot or otherwise relating to environmental protection.

(c) Inspections. Declarant, on behalf of itself, its agents and the Association, reserves the perpetual right, privilege and easement to enter any part of the Property for the purpose of gathering environmental information during reasonable hours and, subject to reasonable security requirements, to determine the quality of the soil, ground water, storm water and any emissions or discharges from the Property.

(d) Clean-up; Indemnification. By accepting a deed to a Lot, each Owner hereby agrees (i) to clean up and remove or contain (but only if permitted by Law) in accordance with and to the extent required by any and all applicable Laws any hazardous or toxic substances or wastes or other environmental contaminants on or under such Owner's Lot or stored, generated, disposed of or discharged by such Owner or any Occupant of such Owner's Lot or from such Owner's Lot, and (ii) to indemnify, defend and hold harmless Declarant, any Affiliate of Declarant, the Association, their agents and each of the other Owners from and against any and all foreseeable and unforeseeable claim, loss, damage, cost or expense (including, without limitation fines, clean-up costs, costs of relocating tenants, employees and agents, restoration costs, loss of income and attorneys' fees) incurred or suffered by the indemnified party as a result of any hazardous or toxic waste or substance or other environmental contaminant discharged from, stored at or disposed of at or from the indemnifying party's Lot.

DEC 27 2008 08:35

7.4 Damage and Destruction. If any Improvements shall be damaged or destroyed by fire or other hazards, then the Owner of such Improvements shall either (i) rebuild such Improvements as promptly as reasonably possible but in any event shall commence rebuilding within six (6) months of the date such damage or destruction occurred (with the Plans for such repair being subject to the same approval process as new construction if such Plans differ from the initially approved Plans for the Improvements), or (ii) demolish and raze the damaged Improvements, remove the slab, if any, fill in all excavations, plant grass and perform such other work as may be necessary to leave the area on which such damaged Improvements were located in a neat, clean and safe condition.

7.5 Rezoning. No Owner or contract purchaser of any Lot shall apply for rezoning, change of proffers, special use permit or special exception for any part of the Property without the prior written consent of Declarant (during the Period of Declarant Control), which consent may be granted or withheld in its sole discretion for any reason or for no reason.

7.6 Nuisances. Notwithstanding approval from any Governmental Entity or the fact that the use in question is a Permitted Use, no use or operation will be permitted which creates objectionable noise, smoke, odors or which in any other way, in the opinion of the Architectural Review Board or Association Board, will constitute a nuisance or degrade the value of the Property.

#### ARTICLE VIII: ADMINISTRATION

8.1 Authority. This Declaration shall be administered by the Association Board and its managing agent for the Property.

8.2 Property Owners Association. Declarant has established a property owners association under the name "New Town Master Association", anticipated to be amended to "New Town Commercial Association", which is a nonstock organization incorporated in the Commonwealth of Virginia for the purposes set forth herein and in the Articles of Incorporation (as they may be amended and restated) and Bylaws of the Association. In addition to the functions to be performed by the Association hereunder, the Association may: (i) by its Association Board, appoint a Chancellor to perform the functions described in Section 11.8; (ii) care for and maintain (or to the extent the same is maintained by a Governmental Entity or another Person, supplement the care and maintenance with respect to) sidewalks, streetlights, trees, parks and other amenities which are for the benefit of Owners and Occupants; (iii) provide other services including, for example, security, janitorial, landscape maintenance and Intranet, and (iv) enter into cost sharing, use and cross access arrangements with any other Person, including any homeowner's association providing services in the vicinity of the Property. References in the Zoning Ordinance to "New Town Master Association" shall, to the extent the same is referring to the association of owners of the Property, be deemed references to New Town Commercial Association after the name change.

DEC 27 2008 36

8.3 Owners as Members. Every Owner shall be a Member of the Association. Membership shall not be separated from ownership of any Lot. Upon the recordation in the Clerk's Office of a deed to a Lot, the membership of the selling Owner shall cease and the purchasing Owner shall become a member of the Association.

8.4 Classes of Membership.

(a) Two Classes of Membership. The Association shall have two classes of voting membership: Class A and Class B.

(b) Class A. Class A Members shall be all Owners including Declarant. Each Class A Member shall be entitled to cast its "proportionate share" of votes. An Owner's proportionate share shall equal the product of 100 multiplied by a fraction, the numerator of which is the total acreage of such Owner's Lot and the denominator of which is the total acreage of all Lots within the Property. When more than one Person holds fee simple title to any Lot, all such Persons shall be Members and the vote for such Lot shall be exercised as they among themselves shall determine. The Person who shall be entitled to cast the vote of the Owners of such Lot shall be the Person (who may be the agent of the Owners) named in a certificate executed by all of the Owners of the Lot and filed with the secretary of the Association; however, in the absence of such named Person at a meeting, another Owner of such Lot who is present at the meeting shall be entitled to cast the vote for such Lot unless otherwise provided in the certificate.

(c) Class B. The Class B Member shall be Declarant, who shall be entitled to cast the Class B vote. For so long as Declarant's Class B membership exists and to the extent not otherwise provided by applicable Laws, this Declaration or the Association's Bylaws or Articles of Incorporation (as they may be amended and restated), the vote of the Class B member shall be required for any vote of the membership to pass. The Class B membership shall terminate on the earliest of the following:

- (i) the date on which Declarant ceases to own at least five percent (5%) (by acreage) of the land described in Exhibits A and B;
- (ii) the date on which Declarant executes and records in the Clerk's Office an amendment to this Declaration terminating the Class B membership (which amendment shall not require the consent of any other Owners); or
- (iii) December 31, 2027.

The period during which the Class B membership exists shall be the "Period of Declarant Control."

8.5 Sanctions. The Association Board may suspend the voting rights of any Member (except the Class B Member) that is subject to any Assessment under this Declaration during any period in which any such Assessment shall be past due; provided however, that upon payment of such Assessment the voting rights of such Member shall automatically be restored. The Association Board may, as a Special Assessment, assess charges against any Owner for any violation of this Declaration or the Rules and Regulations by the Owner or his tenants provided

DEC 27 08 37

that the Owner shall be given an opportunity to be heard and to be represented by counsel before the Association Board. Notice of the hearing, including the charges or other sanctions that may be imposed, shall be given in the manner notices are given to Owners under the Bylaws of the Association at least fourteen (14) days before the hearing. The amount of the charges assessed for the violation, exclusive of the cost of repair of any damage caused by such Owner or tenant, shall not exceed \$2,500 for a single offense or \$250 per day for any offense of a continuing nature (not to exceed \$15,000 in the aggregate).

8.6 Articles and Bylaws to Govern. Except to the extent expressly provided in this Declaration, all of the rights, powers and duties of the Association and the Members, including the Member's voting rights, shall be governed by the Articles of Incorporation (as they may be amended and restated) and the Bylaws of the Association. The Articles of Incorporation (as they are anticipated to be amended and restated) provide, among other things, that the Class B Member shall appoint a majority of the members of the Association Board until the Class B membership terminates. However, in the event of any conflict or inconsistency between the provisions of this Declaration and the provisions of such Articles of Incorporation (as they may be amended and restated), the latter shall control.

8.7 Dissolution of the Association. The Association may be dissolved at a duly held meeting at which a quorum is present upon the vote of more than two-thirds (2/3) of the votes, in person or by proxy, of the Class A Members, the vote of the Class B Member and the consent of the County of James City, Virginia. Prior to dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be offered for dedication to the locality in which they are situated. In the event that such locality refuses to accept such dedication upon dissolution, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to similar purposes.

#### ARTICLE IX: ASSESSMENTS

9.1 Covenant for Assessments. Declarant covenants and each Owner by acceptance of a deed to any portion of the Property (other than Exempt Property) is deemed to covenant and agree to pay General Assessments, Limited Common Expense Assessments (if applicable to such Owner's Lot), Vacant Lot Assessments and Vacant Lot Limited Common Expense Assessments (if applicable to such Owner's Lot), Special Assessments, Parking Assessments (if applicable to such Owner's Lot) and Transfer Fees (when applicable) as provided in this Declaration and in the Bylaws.

9.2 General Assessments. General Assessments shall be assessed annually and shall be paid monthly or in such installments as shall be specified by the Association Board. General Assessments shall be assessed to cover the anticipated annual cost of: operating, maintaining and managing the Common Areas (excluding the Limited Common Areas and Parking Areas); carrying out the duties of the Association under this Declaration; payment of taxes and other levies against the Common Areas (excluding the Limited Common Areas and Parking Areas); procurement of insurance; establishment of reserves, if any, for the Association's duties under the Declaration; and for such other purposes as may be authorized by or pursuant to the Articles of Incorporation (as they may be amended and restated) or Bylaws of the Association. General

Assessments shall be established and increased or decreased from time to time by the Association Board pursuant to the Bylaws. Notwithstanding the foregoing, for the calendar years 2003, 2004 and 2005, any General Assessment adopted by the Association Board which exceeds the applicable "General Assessment Limit" may be reduced to an amount not less than the applicable General Assessment Limit by a two-thirds vote of the Class A Members (excluding votes held by Declarant or an Affiliate of Declarant) at a special meeting of the Association to be held within thirty (30) days after the Association Board adopts the General Assessment. The "General Assessment Limit" shall be \$0.25 multiplied by the Assessable Square Footage (as defined in Section 9.6(a) below).

9.3 Limited Common Expense Assessments. "Limited Common Expenses" are those expenses attributable to managing, maintaining, improving, caring, operating, renovating, repairing, establishing appropriate reserves for, insuring and replacing Limited Common Areas. The purpose of the "Limited Common Expense Assessment" is to provide a means whereby the Owners of Lots which directly benefit from specific Limited Common Area or a specific service pay their proportionate share of the Limited Common Expenses attributable to such Limited Common Area or specific service. Limited Common Expenses may be assessed annually by the Association Board only against the Lots benefited based on the Assessable Square Footage of each benefited Lot, which shall be determined in accordance with Section 9.6 below, or based on usage, or such other method of allocation, as determined by the Association Board. Limited Common Expense Assessments shall be payable monthly or in such installments (if any) as the Association Board may determine. Such Limited Common Expenses shall be determined as follows:

(i) Any expenses designated in a Supplemental Declaration as Limited Common Expenses to be paid by the Owners of the Additional Area being submitted to the Declaration by the Supplemental Declaration;

(ii) Any expenses proposed by the Association Board or a specific group of Owners as Limited Common Expenses against a specific group of Lots and agreed to by Members entitled to cast a majority of the total number of votes with respect to such Lots, assessed against such Lots as such Owners may agree;

(iii) Any expenses incurred in the upkeep of or the maintenance of, and reserves for the upkeep and replacement of, "private" alleys or drives serving a limited number of Lots and labeled "private" on the applicable recorded plat and/or described as "private" in the applicable Supplemental Declaration shall be assessed only against the Lots served by such private alley or drive;

(iv) Any expenses incurred in the upkeep of, or the maintenance of reserves for the upkeep of, Limited Common Area may be assessed only against the Lots served by such Limited Common Area; and

(v) Any service to individual Lots based on usage.

9.4 Special Assessments. In addition to the General Assessments and the Limited Common Expense Assessments, the Association Board may levy a periodic Special Assessment

if the purpose in doing so is found by the Association Board to be in the best interest of the Association and the proceeds of such assessment are used primarily for the maintenance and upkeep, including capital expenditures, of the Common Area or the Limited Common Area, as applicable. If any Special Assessment is in an amount greater than the General Assessment (or the Limited Common Expense Assessment, as applicable) for the same year, then no such Special Assessment shall be levied without the approval of a majority of the votes of the Class A Members (or in the case of Limited Common Area, those Class A Members to which such Limited Common Area appertains) who are voting in person or by proxy at a meeting duly called for such purpose and the affirmative vote of the Class B Member (for so long as the Class B membership shall exist); otherwise, such Special Assessment may be established by the Association Board without a vote of the membership. The foregoing notwithstanding, any Special Assessment may be rescinded by a majority vote of the Class A Members (or in the case of Limited Common Area, those Owners to which such Limited Common Area appertains) attending a meeting of the Association, convened in accordance with the Bylaws within sixty (60) days after receipt of the notice of such assessment. In any vote taken by Members pursuant to this Section, each Member shall be entitled to cast its proportionate share of votes as set forth pursuant to Section 8.4. Written notice of Special Assessments and due dates shall be sent to each Owner (or in the case of Limited Common Area, those Owners to which such Limited Common Area appertains). The amount of any Special Assessment, or the limit on Special Assessments, established by this Section shall not apply to any charge, fee, penalty or other sum which may be levied on or due and payable by any Owner or Occupant under any other provision of this Declaration, even if such charge, fee, penalty or other sum is termed a Special Assessment.

9.5 Parking Assessments. "Parking Assessments" are those assessments calculated in accordance with Section 5.6 and assessed against only the Owners with Attributed Parking Spaces or Attributed Parking Spaces (TS) in the Parking Areas. Notwithstanding the foregoing, for the calendar years 2003, 2004 and 2005, any Parking Assessment adopted by the Association Board which exceeds the applicable "Parking Assessment Limit" may be reduced to an amount not less than the applicable Parking Assessment Limit by a two-thirds vote of the Class A Members (excluding votes held by Declarant or an Affiliate of Declarant) at a special meeting of the Association to be held within thirty (30) days after the Association Board adopts the Parking Assessment. The "Parking Assessment Limit" shall be \$165 per Attributed Parking Space or the appropriate fraction per Attributed Parking Space (TS) for calendar years 2003, 2004 and 2005.

9.6 Calculation of Assessments.

(a) Lots with Approved Plans. The General Assessment payable by each Owner with respect to Lots for which Plans have been approved by the Association's Architectural Review Board pursuant to Article IV of this Declaration shall be calculated by multiplying the annual assessment rate determined by the Association Board in connection with its adoption of the Association's annual budget by the sum of (i) the "Gross Building Square Footage" of the building(s) constructed or to be constructed on each Lot, and (ii) the gross square footage of kiosks and temporary enclosures (collectively, the "Assessable Square Footage"). "Gross Building Square Footage" shall mean the total number of square feet in a building computed by measuring to the outside finished surface of permanent outer building walls for each enclosed

floor of the building, including, but not limited to, basements, mechanical equipment floors, and penthouses. The Development Guidelines adopted by the Association's Architectural Review Board may establish standards for measurement, may require Owners to provide written certifications to the Association regarding the amount of Assessable Square Footage on a Lot by a licensed architect or engineer and may establish the manner in which disputes regarding the calculation of Assessable Square Footage are to be resolved. Limited Common Expense Assessments shall be apportioned as set forth in Sections 9.3, 9.8(c) and 9.11. Parking Assessments shall be apportioned as set forth in Sections 5.6 and 9.8.

(b) Lots Without Approved Plans. The General Assessment payable by each Owner with respect to Lots for which Plans have not been approved by the Association's Architectural Review Board shall be calculated by multiplying the annual "Vacant Lot" assessment rate determined by the Association Board in connection with its adoption of the Association's annual budget by the acreage in such Owner's Lot. The Vacant Lot Assessment for such a Lot for calendar year 2003 shall be equal to the greater of (i) \$1,000 or (ii) \$1,000 multiplied by the acreage of the Lot. Limited Common Expense Assessments shall be apportioned as set forth in Sections 9.3, 9.8(c) and 9.11. Parking Assessments shall be apportioned as set forth in Sections 5.6 and 9.8.

(c) Allocation Method. Notwithstanding the provisions of this Article IX and subparagraphs (a) and (b) above, the Association Board shall have the authority to change the manner in which any Assessments other than Parking Assessments are calculated and allocated if, in the reasonable judgment of the Association Board, such change is necessary to fairly and equitably apportion the responsibility for the payment of such Assessments.

9.7 Liability for Assessments. The Assessments and other charges provided in this Declaration, together with interest thereon and costs of collections thereof, as hereinafter provided, shall be a charge on the Lot and Improvements thereon and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with late charges, interest, costs and attorneys' fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the Assessment fell due. No Owner may waive or otherwise avoid liability for the payment of the Assessments provided for herein by non-use of the Common Area or Limited Common Area or Parking Areas or abandonment of his Lot.

9.8 Date of Commencement of General Assessments, Limited Common Expense Assessments and Parking Assessments.

(a) For those Lots for which Plans have been approved by the Association's Architectural Review Board as of the date of recordation of the deed to such Lot from Declarant to the Owner who purchases the same, the Owner of such Lot shall pay a partial General Assessment as hereinafter provided until the commencement of the full General Assessment as hereinafter provided. The partial General Assessment shall be equal to twenty-five (25) percent of the full General Assessment calculated as provided in Section 9.69(a) above and shall commence as to such Lot on the recordation of the deed to such Lot from Declarant to the Owner who purchases the same. The full General Assessment shall commence as to such Lot on the first to occur of (i) one (1) year after the conveyance of the Lot from Declarant to the Owner who purchases same or (ii) the first day of the month following the date on which the applicable

DEC 27 2008 11:08 AM

Governmental Entity issues a certificate of occupancy (temporary or permanent) for a Building constructed on the Lot. The first full General Assessment shall be adjusted according to the number of days remaining in the calendar year. General Assessments due and payable for years subsequent to the year in which an Owner acquires a Lot from Declarant shall be paid in accordance with Section 9.2 above.

(b) For those Lots for which Plans have not been approved by the Association's Architectural Review Board as of the date of recordation of the deed to such Lot from Declarant to the Owner who purchases the same, the Owner of such Lot shall pay a "Vacant Lot" Assessment as provided in Section 9.6(b) above. Upon the approval of Plans for such Lot by the Association's Architectural Review Board, the General Assessment for such Lot shall be calculated as provided in subparagraph (a) of this Section 9.8.

(c) The Limited Common Expense Assessment shall commence as to each Lot subject to a Limited Common Expense Assessment on the first day of the month following the date on which the applicable Governmental Entity issues a certificate of occupancy (temporary or permanent) for a Building constructed on the Lot. The first Limited Common Expense Assessment shall be adjusted according to the number of days remaining in the calendar year. Limited Common Expense Assessments due and payable for years subsequent to the year in which an Owner acquires a Lot from Declarant shall be paid in accordance with Section 9.3 above.

(d) The Parking Assessments provided for herein shall commence as to each Lot subject thereto on the first to occur of (i) one (1) year after the conveyance of the Lot from Declarant to the Owner who purchases same or (ii) the first day of the month following the date on which the applicable Governmental Entity issues a certificate of occupancy (temporary or permanent) for a Building constructed on the Lot. The first Parking Assessment on a Lot shall be adjusted according to the number of days remaining in the calendar year. Parking Assessments for years subsequent to the first year in which the same commence shall be paid in accordance with Article V.

DEC 27 2008 4:22

9.9 Remedies in Event of Default. If any Owner fails to pay an Assessment when due and payable, the Assessment shall be subject to a late charge in the amount of five percent (5%) of the delinquent Assessment and shall bear interest from the due date at the rate equal to the lesser of eighteen percent (18%) per annum or the highest rate of interest permitted by law. If an Assessment is not paid by the due date, it shall become delinquent and the Association may thereafter send a notice of such delinquency to the Owner, in conformity with the provisions of Section 13.3(b), stating that if the delinquent Assessment is not paid in full within ten (10) days after the date of such notice the Association may thereafter file a written notice of such delinquency (the "Lien Notice") in the Clerk's Office to evidence the lien upon the Lot against which such Assessment was made. Such Lien Notice, setting forth the amount of such unpaid Assessment, the name of the Owner of the Lot and the legal description of the Lot, shall be signed by an officer of the Association and shall be recorded in the Clerk's Office. Subject to the provisions of Section 9.10, the Association may foreclose the lien for the Assessments provided for in this Declaration by a bill in equity in the same manner as provided for the foreclosure of mortgages, vendor's liens and liens of similar nature. The Association may also secure and collect Assessments by any other means permitted by Laws. In addition, either in the first

instance or for deficiency following foreclosure, the Association may bring an action at law to collect such indebtedness against the Owner personally obligated to pay the same. Interest, late charges, costs and attorneys' fees of any such action, including the cost of filing the Lien Notice, shall be added to the amount of the Assessments due and shall be secured by the Assessment lien. Each Owner waives the benefit of the Homestead Exemption Act as to any Assessment.

9.10 Subordination of Lien to Mortgages. The lien upon each of the Lots securing the payment of the Assessments shall be superior to all other subsequent liens and encumbrances except (i) real estate tax liens on such Lots, (ii) liens and encumbrances recorded prior to this Declaration, and (iii) sums unpaid on and owing under any Mortgage recorded prior to the perfection of such lien, whether or not such sums are advanced before or after the filing of the Lien Notice as to such Assessments.

9.11 Exempt Property. The following real estate subject to this Declaration shall be exempt from the Assessments and liens created herein: (i) Property so long as the same is owned by Declarant except (a) for any Lot owned by Declarant on which a Building has been constructed, in which case the Assessments shall commence on the first day of the month following the date on which the applicable Governmental Entity issues a certificate of occupancy (temporary or permanent) for the Building and (b) to the extent provided in Section 5.6; (ii) all Property dedicated to and accepted by a public authority; and (iii) all Common Areas and Limited Common Areas and Parking Areas. Collectively, the real estate referred to in items (i) - (iii) of the preceding sentence shall constitute the "Exempt Property."

9.12 Transfer Fee. Excluding the first sale of each Lot from the Declarant to an Owner but including all subsequent sales of each Lot (except a foreclosure or a deed in lieu of foreclosure under a first lien Mortgage securing a Mortgagee), unless expressly waived in writing by the Association Board a transfer fee ("Transfer Fee") shall be paid to the Association. The Transfer Fee shall equal one-fourth of one percent of the purchase price paid by the purchaser. The Transfer Fee shall be paid to the Association and, unless otherwise determined by the Association Board, used by the Association for community, recreational, educational or cultural events. Payment of the Transfer Fee shall be the joint and several obligation of the selling and purchasing Owners. In the event of non-payment of such Transfer Fee, the amount due shall bear interest as set forth in Section 9.9, shall constitute a lien on the Lot and shall be collectible as an Assessment. The Association may require the purchasing and/or selling Owners to provide reasonable written proof of the applicable purchase price, such as executed closing statements, contracts of sale or other such evidence.

#### ARTICLE X: EASEMENTS

10.1 Utility Easements. Declarant hereby reserves perpetual easements, rights and privileges to install, maintain, repair, replace and remove poles, wires, cables, conduits, pipes, mains, pumping stations, siltation basins, tanks and other facilities, systems and equipment for the conveyance and use of electricity, telephone service, sanitary and storm sewer, water, gas, cable television, drainage, irrigation and other public or private conveniences or utilities, upon, in or over those portions of the Property (including Lots, Common Areas, Limited Common Areas and Parking Areas) as Declarant may consider to be reasonably necessary (the "Utility

DEC 27 2008 4 3

Easements"). However, except as herein provided, no Utility Easements shall be placed on the portion of a Lot on which is already located a Building which was approved by the Architectural Review Board or on which a Building is to be located pursuant to Plans approved by the Architectural Review Board. The Utility Easements shall include the right to cut and/or remove trees, bushes or shrubbery and such other rights as Declarant or the Governmental Entity or utility company providing the utility service may require. The utility lines installed pursuant to the Utility Easements must be installed below ground level except as otherwise provided in any Supplemental Declaration or permitted by the Architectural Review Board. Declarant shall have the right to convey or assign the benefit or use of Utility Easements to other Owners, to any Governmental Entity or utility company, to the Association and to any other Person.

10.2 Erosion Control. Declarant reserves for itself and for the Association a perpetual easement, right and privilege to enter upon any Lot, Common Area or Limited Common Area or Parking Area, either before or after any Improvement has been constructed thereon or during such construction, for the purpose of taking such erosion control measures as Declarant or the Association deems necessary to prevent or correct soil erosion or siltation or in connection with the water bodies; provided however, that Declarant or the Association shall not exercise such right unless it has given the Owner of the Lot (or to the Association as to the Common Area or Limited Common Area or Parking Area) at least five (5) days' prior notice thereof (or such shorter notice as shall be appropriate in an emergency as determined by Declarant or the Association, as applicable) and the Owner or the Association, as the case may be, has failed to take appropriate action to correct or prevent the erosion or siltation problem. The cost incurred by Declarant or the Association, as applicable, in undertaking such erosion or siltation control measures on any Lot shall become a Special Assessment upon the Lot and shall constitute a lien against the Lot and shall be collectible in the manner provided herein for the payment of Assessments. This Section shall not apply to Property so long as it is owned by Declarant.

10.3 Maintenance of Lots. Declarant reserves for itself and for the Association the perpetual easement, right and privilege to enter upon any Lot, after at least ten (10) days' notice to the Owner thereof, for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, dispensing pesticides, herbicides, fertilizer and grass seed, removing trash and debris and taking such other action as Declarant or the Association, as applicable, may consider necessary to correct any condition which violates this Declaration or the Development Guidelines, detracts from the overall beauty of the Property or which may constitute a hazard or nuisance. The cost incurred by Declarant or the Association, as applicable, in taking such action shall constitute a Special Assessment upon the Lot and shall be collectible in the manner provided herein for the payment of Assessments. This Section shall not apply to Property so long as it is owned by Declarant.

10.4 Construction Easements and Rights. Notwithstanding any provision of this Declaration or of any Supplemental Declaration, for so long as Declarant owns any portion of the Property and/or the Additional Land, Declarant shall have an easement of ingress, egress and use over any lands not conveyed to an Owner other than the Association, including without limitation, Common Areas, Limited Common Areas and Parking Areas, for (i) movement and storage of building materials and equipment, (ii) erection and maintenance of directional and promotional signs and (iii) conduct of sales and other promotional activities.

DEC 27 2008 4 4

10.5 Right of Entry for Governmental Personnel. A right of entry on any Lot, Common Area, Limited Common Area and Parking Area is hereby granted to law enforcement officers and fire and rescue personnel as needed to lawfully carry out their duties, including enforcement of cleared emergency vehicle access.

10.6 Easement for Landscaping, Signs and Related Purposes. There shall be and is hereby reserved to Declarant until such time as the Class B membership terminates, and thereafter to the Association, a non-exclusive easement (i) over Common Areas and Limited Common Areas for the first twenty (20) feet adjacent to the edge of the right-of-way for any public or private street and adjacent walkway through, along or adjoining such Common Area or Limited Common Area, or as otherwise shown on a plat recorded prior to the conveyance of or dedication of the Common Area or Limited Common Area, for the purpose of erecting and maintaining berms, directional safety or security signs, temporary promotional signs, plantings, street lights, entrance features, lighting, stone, wood or masonry wall features and/or related landscaping and (ii) over Lots for the first ten (10) feet adjacent to the edge of the right-of-way for any public or private street and adjacent walkway through, along or adjoining such Lot, for the purpose of erecting and maintaining directional, convenience, information, safety or security signs, or temporary promotional signs, in a manner that does not interfere with normal and convenient use of the Lot and provided that such easement on the Lot shall not be deemed to prohibit the construction of any Improvement on the Lot that is otherwise approved pursuant to the terms of this Declaration.

10.7 Easement for Use of Water Bodies and Irrigation. Declarant hereby reserves a perpetual easement and right to use the Water Bodies lying within the Common Areas and Limited Common Areas for the purposes of stormwater management and control, creation of wetlands and irrigation of other Lots or parcels now, or in the future, owned by Declarant or third parties. Declarant may irrigate all or portions of such other Lots or parcels with water drawn from the Water Bodies lying within the Common Areas and Limited Common Areas. Declarant may install pipes, riprap, wires, landscaping, dams, pumps, water lines and other equipment as necessary and shall have an easement therefor.

Declarant further reserves: (i) the right to lay, install, construct and maintain an irrigation system, including underground irrigation lines, over all Common Areas and Limited Common Areas and Parking Areas and landscaping easement areas granted to Declarant or the Association for the purpose of providing irrigation to other Lots or parcels which may or may not be a part of the Property, and (ii) the right to enter onto Lots, Common Areas, Limited Common Areas and Parking Areas to maintain the Water Bodies as may be necessary to ensure that such water bodies continue to provide a sufficient source of water to satisfy the irrigation needs described in this Section. Nothing described in this Section shall impose any obligation on Declarant to maintain the Water Bodies located in the Common Areas and Limited Common Areas.

Declarant shall have the right to transfer all or a portion of the rights retained by Declarant under this Section to third parties.

10.8 Easement for Encroachment. There shall be appurtenant to each Lot, Common Area, Limited Common Area and Parking Area an easement over all adjoining Lots, Common

DEC 27 2008 08:45

Areas, Limited Common Areas and Parking Areas for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of a Building, or any other similar cause, and any encroachment due to Building overhang or projection. There shall be valid easements for the maintenance of such encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by such encroachment, settling or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if such encroachment occurred due to the willful act or acts with knowledge of such Owner or Owners. In the event a Structure on any Lot is partially or totally destroyed and then repaired or rebuilt, the Owners of each Lot agree that minor unintentional encroachments over adjoining Lots shall be permitted, and that there shall be valid easements for the maintenance of such encroachments so long as they shall exist. The re-subdivision of any Lot or the separate conveyance of any portion of a Lot other than an easement is prohibited without the consent of the Architectural Review Board. Declarant reserves a non-exclusive easement over all Lots, Common Area, Limited Common Areas and Parking Areas for the following:

- (i) to maintain, repair and to utilize any exterior or interior wall that forms a party wall between two adjacent Lots; a wall will be considered a party wall only if it provides support for the buildings, or parts of a building, or more than one Lot;
- (ii) to maintain, replace and repair any building wall, courtyard or yard wall or fence placed along a Lot boundary;
- (iii) to erect, replace, repair and maintain roofs, gutters, soffits, downspouts, rain leaders and footings that overhang or extend onto the Lot adjacent to the Improvement of which they are a part; provided however, that such intrusion shall not (a) extend more than 4 feet onto the adjoining property, (b) interfere with an existing or approved Improvement on the adjoining Lot or (c) discharge water onto the adjoining Lot except into a common pipe or over conveyance designed for receipt of stormwater from multiple properties; and
- (iv) to erect, replace, repair and maintain encroachments into the Common Areas, Limited Common Areas and Parking Areas including flags, flagpoles, stoops, balconies, planters, window boxes and other similar features.

Declarant may assign any portion of this right and easement to the Association or another Owner without reduction of Declarant's remaining rights and easements. To the extent any easement described in this Section is utilized by Declarant or an Owner, the party utilizing the easement shall be responsible for all costs and liability associated with such utilization and shall maintain appropriate insurance in connection with such utilization.

#### ARTICLE XI: ENFORCEMENT

11.1 Preventive Remedies. Declarant, the Association Board, the Association, the Architectural Review Board or any Owner may proceed at law or in equity to prevent the violation of this Declaration.

11.2 Enforcement Rights. Declarant and the Association or their duly authorized agents shall have the right, upon reasonable notice, at any time and from time to time following violation or breach of this Declaration (i) to enter upon any Lot to which such violation or breach exists and summarily to abate and remove, at the expense of the Owner thereof, any Structure, object or condition that may be or exist there contrary to the intent and meaning of this Declaration (including, without limitation, the care and maintenance of landscaping and lawns, care and maintenance of Improvements, removal of trash and debris, and removal of dirt from streets resulting from construction activity and abatement of nuisances, removal or relocation of signs) and (ii) to institute a proceeding at law or in equity against the Persons who have violated, attempted to violate or propose to violate any of the provisions of this Declaration, to enjoin or prevent them from doing so, to cause the violation to be remedied and to recover damages for the violation. If, pursuant to this Section, the duly authorized agents of Declarant or the Association enter upon any Lot for the purpose of abating or removing any violation or breach of this Declaration, neither the Person entering nor the Person directing the entry shall be deemed liable for any manner of trespass for such action, and the costs related to such abatement, including overhead, interest, late charges and costs of collection, shall become a Special Assessment upon such Lot and shall be secured by the Assessment lien provided for in this Declaration. This Section shall not apply to Property so long as it is owned by Declarant.

11.3 Cumulative Remedies. The remedies hereby specified are cumulative, and the listing of specific remedies herein shall not be deemed to preclude any aggrieved Person's resort to any other remedy provided hereunder or at law in equity.

11.4 Failure to Enforce Not a Waiver of Rights. No delay or failure on the part of an aggrieved Person to invoke any available remedy in respect to a violation of any provision of this Declaration shall be held to be a waiver by the Person of (or an estoppel of that Person to assert) any right available to him upon recurrence or continuance of such violation or the occurrence of a different violation, nor shall there be imposed upon Declarant or the Association or the Association Board or the Architectural Review Board a duty to take any action to enforce this Declaration.

11.5 Assignment of Rights and Duties. Any and all of the rights, powers and reservations of Declarant herein contained (including, without limitation, the benefits of any reserved easements) may be specifically assigned by Declarant to any Person (including, without limitation, the Association), and upon any such Person consenting in writing to accept such assignment and assume such rights, powers and duties, such Person shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. No conveyance by Declarant of any part of the Property or any interest therein shall be deemed to be, or construed as, an assignment of any right or power reserved herein, unless such right, power or reservation is specifically transferred or assigned by Declarant. The term "Declarant" as used herein includes, to the extent of the assignment, all such assignees who are specifically assigned such rights, powers and reservations, and their successors and assigns. Any assignment or appointment made under this Section shall be recorded in the Clerk's Office. From and after the date Declarant assigns to another Person

DEC 27 2008 08:47

any of its obligations under this Declaration, Declarant shall be relieved of such obligations and released from all liability for the performance or non-performance thereof.

11.6 Constructive Notice and Acceptance. Each Owner, Occupant or other Person, by acceptance of a deed conveying title to a part of the Property, or the execution of a contract for the purchase thereof, or the acceptance of a lease or license therefor, or the taking possession thereof, whether from Declarant or other Owner or lessee, shall for himself, his successors and assigns, be deemed to (i) accept such deed, contract, lease, license or possession upon and subject to each and all of the provisions of this Declaration, and (ii) covenant to and with Declarant and the other Owners to keep, observe, comply with and perform the requirements of this Declaration, whether or not any reference to this Declaration is contained in the instrument by which such Person acquired said interest. Notwithstanding the foregoing, Owners agree to refer to this Declaration in deeds, leases and licenses covering any portion of the Property and to make this Declaration binding upon all Owners and Occupants.

11.7 Waiver. Neither Declarant, the Architectural Review Board, the Association Board, the Association or any Member thereof, nor their successors or assigns shall be liable for damages to any Owner, licensee, or Occupant by reason of any mistake in judgment, negligence, nonfeasance, action or inaction in the administration of the provisions of this Declaration or for the enforcement or failure to enforce this Declaration or any part thereof; and every Owner or Occupant, by acquiring an interest in the Property, agrees that he will not bring any action or suit against Declarant, the Architectural Review Board or its members, the Association Board or its members or the Association to recover damages or to seek equitable relief on account of their enforcement or non-enforcement of this Declaration.

11.8 Chancellor. The Association Board may appoint one or more individuals to serve as Chancellor(s) for the Property. The wages and expenses of the Chancellor(s) shall be part of the General Assessments. The primary role of the Chancellor(s) is to mediate disputes among Owners and Occupants in an effort to achieve an agreed resolution. The Association Board may establish Rules and Regulations relating to the Chancellor program. The Association may also elect to establish a joint Chancellor program in conjunction with any development(s) adjoining or in the vicinity of the Property.

## ARTICLE XII: DURATION AND AMENDMENT

12.1 Duration of Protective Covenants. This Declaration shall continue and remain in full force and effect at all times with respect to the Property and each part thereof (subject, however, to the right to amend as provided for herein) for a period of thirty (30) years from the date of recordation of this instrument in the Clerk's Office and shall be automatically extended thereafter for successive periods of twenty-five (25) years each, subject to termination by an amendment as provided below. Notwithstanding the foregoing, all easements reserved pursuant to Article X shall be perpetual except to the extent that a shorter period is specified therein.

12.2 Amendment. Except as expressly provided elsewhere in this Declaration, this Declaration may be amended (i) by Declarant without the consent of any other Owners in order to correct typographical errors, inconsistent references, scrivener's errors, grammatical mistakes,

DEC 27 2008 4 9

or incorrect or ambiguous punctuation or to clarify an ambiguity for so long as Declarant's Class B membership continues or (ii) by a vote of the sum of: (A) two-thirds (2/3) of the Class A votes (including Class A votes held by Declarant), plus (B) the Class B vote (if any). Notwithstanding the foregoing, the provisions of Articles II, IV, V and X and Sections 3.2, 6.7, 6.8, 8.4, 9.11, 11.2, 13.1 and this Section 12.2 may not be amended without the written consent of Declarant for so long as Declarant owns any portion of the Property or the land described in Exhibit B and regardless of whether the Class B membership has terminated, the provisions of Section 9.9 may not be amended without the written consent of all Mortgagees and the Exhibit D parking ratios shall not be increased without the consent of Declarant and all Owners. In addition, Declarant, for so long as Declarant owns any portion of the Property and regardless of whether the Class B membership has terminated, shall have the right, without the consent of any other Owners, to amend this Declaration in order for this Declaration or the Property to comply with Laws now or hereafter enacted, to comply with any easements or agreements with third parties affecting the Property to satisfy the requirements, as the same may be amended from time to time, of any Federal Mortgage Agency (including, without limitation, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the U.S. Department of Housing and Urban Development) with respect to their purchase of mortgage loans secured by property located within the adjacent residential planned communities known or to be known as "New Town."

#### ARTICLE XIII: MISCELLANEOUS

13.1 Variance. The Architectural Review Board shall have the right to grant reasonable written variances from provisions of this Declaration or any portion hereof (including, without limitation, the provisions of Section 3.1), in order to overcome practical difficulties and to prevent unnecessary hardship in the application of the provisions contained herein; provided however, that such variances shall not, in the opinion of the Architectural Review Board, materially injure or adversely impact any of the real property or Improvements within the Property. No variance granted pursuant to the authority herein reserved shall constitute a waiver of any provisions of this Declaration as applied to any other Person or property.

13.2 Effect of Invalidation. If any provision of this Declaration is held to be invalid or unenforceable by any court, the invalidity of such provision shall not affect the validity of the remaining provisions of this Declaration, which shall continue unimpaired, in full force and effect and shall be construed to the fullest extent practicable as if such invalid or unenforceable provisions had not been included in this Declaration.

#### 13.3 Notice.

(a) To Declarant. Any and all notices or other communication required or permitted by this Declaration or by law to be served on or given to Declarant shall be in writing and shall be deemed duly served and given when personally delivered, or in lieu of such personal service, on the third business day after it is deposited in the United States mail, first class, postage prepaid, certified or registered mail, return receipt requested, addressed to Declarant as follows:

DEC 27 2008 4 3

If to Declarant:

New Town Associates, LLC  
P.O. Box 5010  
Williamsburg, VA 23188

with copies to:

Elizabeth L. White, Esquire  
Kaufman & Canoles  
1200 Old Colony Lane  
P.O. Box 6000  
Williamsburg, VA 23188

or to such other address(es) as Declarant may hereafter specify by Supplemental Declaration executed by Declarant without the consent of any other Owners.

(b) To Owners. Notice to any Owner (other than Declarant) or Occupant holding under any Owner or to any Mortgagee shall be deemed duly served when personally delivered to the Person to whom it is directed, or in lieu of such personal service, on the third business day after it is deposited in the United States mail, first-class postage prepaid, certified or registered mail, return receipt requested, addressed to (i) the Owner or Occupant at the address as shown in the applicable County or City tax records, or to such other address as designated by the Owner, in writing to Declarant or the Association, as applicable; and (ii) to such Owner's or Occupant's Mortgagee at the address as designated by the Mortgagee in writing to the Association and Declarant.

13.4 Interpretation. This Declaration shall be interpreted for the mutual benefit and protection of the Owners and Occupants of the Property and in furtherance of the basic goals of this Declaration. Any discrepancy, conflict or ambiguity which may be found herein shall be resolved and determined by Declarant or the Association Board (if Declarant's rights hereunder have been assigned to the Association) and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, such resolution and determination shall be final.

13.5 Captions. The table of contents, paragraph headings and captions appearing in this Declaration are inserted only as a matter of convenience and for reference and in no way limit or otherwise affect the scope, meaning or effect of any provisions of this Declaration.

13.6 Run with Land. The covenants and restrictions of this Declaration shall run with and bind the Property and the Owners and Occupants thereof.

13.7 Governing Law. This Declaration and rights of the Owners of the land within the Property shall be governed by the laws of the Commonwealth of Virginia.

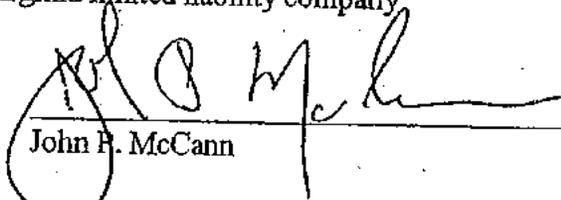
*[This area intentionally left blank. Signatures appear on following page.]*

DEC 27 2008 5:00

IN WITNESS WHEREOF the undersigned have caused this Declaration to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By:

  
John P. McCann

Title: Executive Director

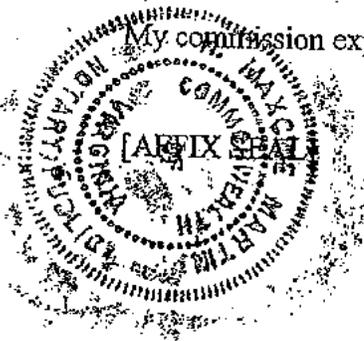
COMMONWEALTH OF VIRGINIA  
AT LARGE

The foregoing instrument was acknowledged before me in the City/County of Henrico, this 26<sup>th</sup> day of November, 2002, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.



Notary Public

My commission expires: 12-31-04



DEC 27 08:51

CASEY OFFICE, L.L.C., a Virginia limited liability company

By: Robert T. Casey  
Robert T. Casey  
Title: Secretary

COMMONWEALTH OF VIRGINIA  
AT LARGE

The foregoing instrument was acknowledged before me in the City/County of James City, this 6<sup>th</sup> day of December, 2002, by Robert T. Casey, as Secretary of Casey Office, L.L.C., a Virginia limited liability company, on its behalf.

Terry Reed  
Notary Public

DE0278 0852

My commission expires: 06-30-06



Pursuant to Proffer #1 (Proffers Applicable to all Property) of the New Town Proffers dated December 9, 1997 and to Proffer #2 of the New Town – Sections 2 and 4 – Proffers dated November 1, 2001, this Amended and Restated Declaration of Covenants, Easements, and Restrictions for New Town Commercial Properties has been approved by the County Attorney's Office.

Leo P. Rogers  
Leo P. Rogers, Deputy Attorney

DEC 27 8 08 53

COMMONWEALTH OF VIRGINIA  
AT LARGE

The foregoing instrument was acknowledged before me in the City/County of James City, this 27<sup>th</sup> day of December, 2002, by Leo P. Rogers, Deputy Attorney, for James City County, on it's behalf.

[Signature]  
Notary Public



My commission expires: 11/30/2005

[AFFIX SEAL]

**EXHIBIT A**

**To Declaration of Covenants, Easements and Restrictions  
for New Town Commercial Properties**

**Description of the Property**

**I**

That portion of that certain piece or parcel of land located in James City County, Virginia, shown and set out as "Southern Civic District Section 1" on the Master Land Use Plan entitled "NEW TOWN PLAN", prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997, last revised December 8, 1997, lying north of Monticello Avenue.

**II**

Those certain pieces or parcels of land shown and set out as Sections 2 and 4 on the Master Land Use Plan entitled "NEW TOWN PLAN", prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997, last revised December 8, 1997.

Parcels I and II above comprise approximately 82.8 acres.

**III**

That certain tract of land located in James City County, Virginia, shown and set forth on the plat attached to the Original Declaration as Exhibit A, comprising 5.103 Acres, more or less, as more particularly described in that certain Deed dated July 10, 1998 and recorded in the Clerk's Office as instrument 980013870.

**IV**

That certain tract of land located in James City County, Virginia designated as "BMP #1" shown and set forth on the plat attached as Exhibit A to an instrument entitled, "Supplemental Declaration of Covenants, Easements and Restrictions, New Town, Southern Civic District, Designation of BMP #1 as Common Area" dated July 22, 1998 and recorded in the Clerk's Office as instrument 980013869.

DEC 27 8 08 54

**EXHIBIT B**

**To Declaration of Covenants, Easements and Restrictions  
for New Town Commercial Properties**

**Description of Additional Property**

ALL that certain lot, piece or parcel of land, together with improvements thereon and appurtenance thereto belonging, lying and being in Berkeley District of the County of James City, Virginia, containing a total of 300.71 acres on the west line of Ironbound Road, all as shown on the survey dated May 26, 2000, last revised June 7, 2000, prepared by Ronald W. Eads, Land Surveyor, entitled "ALTA/ACSM Land Title Survey Portion of Property Owned by C.C. Casey Limited Company, Containing a Total of 300.714 Acres", which plat is attached to the Deed to The College of Williams and Mary Real Estate Foundation, Inc., dated June 23, 2000 and which plat reference is made for a more particular description of the Additional Property.

BEING the same property conveyed to Declarant by deed dated June 23, 2000 from C.C. Casey Limited Company, a Virginia limited liability company, and The College of William and Mary Real Estate Foundation, Inc., a Virginia non-stock corporation, recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia, as instrument 000012573.

LESS AND EXCEPT, all those certain lots, pieces or parcels of land set forth and described in Exhibit A to the Declaration.

DE0278 0855

EXHIBIT C

To Declaration of Covenants, Easements and Restrictions  
for New Town Commercial Properties

Permitted Uses

All structures to be erected on land that is subject to the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Association shall be for one or more of the following uses.

Non-Residential Uses:

Adult day care centers;

Antique shops;

Art galleries;

Automobile rental (excluding parking of rental cars for other than short term daily parking related to pick-up and drop-off);

Banks, other similar financial institutions and brokerage offices;

Barber and beauty shops;

Business, professional and governmental offices;

Child day care centers;

Clubs, public or private, civic or service clubs, country clubs, lodges and fraternal organizations;

Conference centers;

Convenience store;

Colleges;

Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities;

Dry cleaners and laundries (excluding dry cleaning plants);

080278 0856

Farmer's markets;

Feed, seed and farm supply stores;

Fire stations;

Food processing and storage, but not the slaughter of animals;

Greenhouses and nurseries;

Handicrafts stores;

Health clubs, exercise clubs and fitness centers;

Home occupations as defined in the James City County Code;

Hospitals;

Hotels, motels, tourist homes and convention or meeting centers;

Places of worship and columbariums accessory hereto;

Indoor sport facilities;

Indoor theaters;

Libraries;

Machinery sales and service with all repair under cover;

Museums

Office supply stores, secretarial and duplicating services;

Parking lots and garages;

Photographer, picture, artist and sculptor stores and studios;

Physician offices;

Plumbing and electrical supply with storage limited to a fully enclosed building;

Post offices;

Printing and publishing establishments;

DEC 27 8 08 57

Processing, assembly, storage and/or clean manufacture of consumer, commercial and light industrial products with all storage, processing, assembly and manufacture conducted indoors and under cover, on land in the business park.

Property maintenance facilities, sheds or garages;

Public billiard parlors, pool rooms, bowling alleys, internet cafes;

Public meeting halls;

Rental of rooms to a maximum of three rooms in other than hotels, motels, tourist homes and convention centers

Research, development and design facilities or laboratories;

Restaurants, delicatessens, tea rooms and taverns;

Retail and services stores, including the following stores: arts and crafts, auto parts, bakery, beer and/or wine, beverage, books, cabinet, candy, carpet, coin, department, dressmaking, drug, eye glasses, fish, florist, furniture, garden supply, greeting card, grocery, gunsmith (excluding shooting ranges), hardware, health foods, home appliance and service, ice cream, jewelry sales and service, locksmith, meat, music and records, paint, pet, picture framing, pharmacy, plant supply, shoe, specialty foods, sporting goods, stamp, state ABC, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel, and yard goods;

Security service offices;

Self-storage facilities;

Schools;

Telephone exchanges and telephone switching stations;

Veterinary hospitals;

Warehouses with all storage indoors, on land in the business park;

Water impoundments, new or expansion of;

Welding and machine shops with storage limited to a fully enclosed building;

Accessory structures related to the foregoing uses.

**Residential Uses:** (Only if not in the New Town Residential Association)

Apartments;

DEC 27 2008 08 58

Condominiums;

Independent living, assisted living and nursing care facilities for seniors;

Mixed-use buildings that include multiple-family dwellings;

Accessory structures related to the foregoing residential uses.

DEC 27 8 08 59

Use Allowed Only by Special Permission  
of the Board of New Town Commercial Association

Automobile repair and service including tire, transmission, glass, body and fender, and other automotive sales (new and/or used) and service with repair under cover and storage of parts and vehicle storage screened from adjacent property by landscaping and fencing;

Automobile service stations (with fuel sales);

Electrical generation facilities, public or private, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more;

Family care homes or group homes serving physically handicapped, mentally ill, mentally retarded or other developmental disabled persons;

Fuel Sales;

Funeral Homes, memorial gardens and/or columbariums;

Flea markets;

Game rooms, arcades, dance halls, and other indoor centers of amusement, not specifically listed under Permitted Uses;

Heliports, helistops and accessory uses;

Home Care Facilities as defined in the James City County Code;

Kennels;

Processing, assembly, storage and manufacture of consumer, commercial and industrial products, on land in the business park, not included under Permitted Uses;

Radio stations, television stations, transmission relay stations and communication towers;

Rehabilitation facilities;

Rental of more than three rooms in a single-family dwelling unit;

Resource recovery facilities;

Shooting ranges, indoor;

Theme parks;

DEC 27 2008 08 60

Tower mounted wireless facilities;

Transportation facilities and depots;

Wineries;

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged; and

Accessory structures related to the foregoing uses.

DEC 27 08 61

EXHIBIT D

To Declaration of Covenants, Easements and Restrictions  
for New Town Commercial Properties

Parking Ratios

The following shall be parking ratios required for all uses in calculating Adequate Automobile Parking:

Parking Ratios	James City County Mixed Use Parking Maximum	New Town Shared Parking Using a Parking Area
Bank/Office	3.00 per 1,000 sq ft.	97% of 4.00 per 1,000 sq ft (based on Rentable Area*)
Retail	4.00 per 1,000 sq ft	97% of 3.8 per 1,000 sq
Hotel	1.00 per room	97% of 1.00 per room
Conference	30.00 per 1,000 sq ft	97% of 30.00 per 1,000 sq ft
Apt. Residential	1.50 per unit	1.50 per unit
Theater	1.00 per 6 seats	97% of 1.00 per 6 seats
Restaurant	1.00 per 3 seats	97% of 1.00 per 3 seats
Medical/Dental	1.00 per doctor	1.00 per doctor
Barber/Beauty	1.00 per chair	1.00 per chair

DEC 27 2008 62

\*Rentable Area for office shall mean the total number of square feet of rentable floor area of space in the Building determined by BOMA standards plus the core factor.

#6033276 v-1 - New Town/Ar Master Declaration

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 27 Dec 08  
at 3:40 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.  
STATE TAX LOCAL TAX ADDITIONAL TAX

TESTE: BETSY B. WOOLRIDGE, CLERK

51 of 51 BY: Betsy B. Woolridge Clerk

110001446

**AMENDMENT  
TO  
AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS,  
EASEMENTS AND RESTRICTIONS  
FOR  
NEW TOWN COMMERCIAL PROPERTIES**

**(NOTE: THIS AMENDMENT PROVIDES FOR A TRANSFER FEE PAYABLE UPON  
SALE OF INTERESTS IN REAL PROPERTY AND/OR  
ENTITIES HOLDING INTERESTS IN REAL PROPERTY)**

This AMENDMENT TO AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS (this "Amendment") is made this 22<sup>nd</sup> day of DECEMBER, 2010, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company, and NEW TOWN COMMERCIAL ASSOCIATION, INC., a Virginia non-stock corporation, to be indexed as "Grantor" and "Grantee" for recording purposes.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its

Tax Parcel No. 3840100055

Prepared by: Kaufman & Canoles, P. C.

✓ AND RETURN 4801 Courthouse Street, Suite 300

TO: Williamsburg, VA 23188

right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated November 26, 2002 and recorded in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited liability company (the "Amended and Restated Declaration"), the Original Declaration was amended and restated in its entirety. The Amended and Restated Declaration, as now or hereinafter amended, supplemented and/or restated by instruments of record in the Clerk's Office is hereinafter referred to as the "Declaration." The Declaration was drawn as part of development of the Mixed Use area of James City County known as "New Town," properties in which are governed by the New Town Commercial Association, Inc. (the "Association") and the New Town Residential Association, Inc.

D. Section 9.12 of the Declaration provides for the payment of a Transfer Fee to New Town Commercial Association, Inc. upon the sale of any Lot.

E. Article XII, Section 12.2 of the Declaration provides that it may be amended by a vote of the sum of: (A) two-thirds (2/3) of the Class A votes (including Class A votes held by Declarant), plus (B) the Class B vote (if any), cast by the Members of the Association.

F. The Members of the Association and the Declarant have determined it to be in the best interests of the Association as well as the New Town Residential Association, Inc. to apply the Transfer Fee to residential and non-residential condominium units and to make certain changes to the Transfer Fee requirements as more particularly set forth below.

G. Members holding two-thirds (2/3) or more of the Class A votes of the Association and Declarant, as the sole Class B Member, have voted to approve this Amendment.

H. Unless otherwise defined herein, capitalized terms used herein shall have the meaning set forth in the Declaration.

#### AMENDMENT

NOW, THEREFORE, the Declaration is hereby amended and supplemented as follows:

1. Section 9.12 entitled Transfer Fee is hereby amended to read as follows:

**9.12 Transfer Fee.** Excluding the first sale of each Lot from Declarant to an Owner but including all subsequent sales of each Lot (except a foreclosure or a deed in lieu of foreclosure under a first lien Mortgage securing a Mortgagee or as provided herein), unless expressly waived in writing by the Association Board, a transfer fee ("Transfee Fee") shall be paid to the Association at or before each transfer of title pursuant to any sale of a Lot.

(a) The term "Lot" as used in this paragraph shall include, without limitation, condominium units, fractional interests, interests of tenants in common or interests of any joint tenant, time share units or interests, and/or any other ownership interest in any residential or non-residential property.

(b) The sale of a Lot shall, for purposes of the Transfer Fee obligation imposed hereunder, include the sale or transfer of a controlling interest in any corporation, partnership, limited liability company or other entity holding title to a Lot (hereinafter an "Entity"). In such transaction, the Transfer Fee shall be based on the greater of (i) the fair market value of the Lot held by the Entity, or (ii) the portion of the Entity transfer consideration allocated to the Lot by parties to such transaction. Any such Entity shall give notice to the Association prior to such transfer of controlling interests.

(c) The Transfer Fee applicable to any Lot used for commercial purposes shall be calculated as follows:

(i) One-fourth (1/4) of one percent (1%) of the purchase price paid by the purchaser up to a purchase price of TEN MILLION AND NO/100 DOLLARS (\$10,000,000.00).

(ii) One-tenth (1/10) of one percent (1%) of the amount of the purchase price which exceeds TEN MILLION AND NO/100 DOLLARS (\$10,000,000.00).

(d) The Transfer Fee applicable to any Lot used primarily for residential purposes shall be such percentage of the purchase price paid by the purchaser as determined by the Association from time to time. It is the intent of this subparagraph that the Association shall endeavor to (but shall not be required to) establish a Transfer Fee roughly equal to the Transfer Fee applicable to residential units governed by the New Town Residential Association, Inc.

(e) The Transfer Fee shall be paid to the Association and, unless otherwise determined by the Association Board, used by the Association for community, recreational, educational or cultural events and initiatives. Payment of the Transfer Fee shall be the joint and several obligation of the selling and purchasing Owners. In the event of non-payment of such Transfer Fee, the amount due shall bear interest as set forth in Section 9.9, shall constitute a lien on the subject Lot, and shall be collectable as an Assessment. The Association may require the purchasing and/or selling Owners to provide reasonable written proof of the applicable purchase price, such as executed closing statements, contracts of sale or other such evidence.

(f) The determination as to whether a Lot is used primarily for commercial or residential purposes shall be made by the Association Board in its sole discretion.

(g) The Transfer Fee shall not be payable in the event of a transfer by gift, a transfer without consideration, a transfer pursuant to administration of a decedent's estate, a transfer to a trust, the beneficiaries of which are members of the transferor Owner's family, or the transfer to any Entity wholly owned and controlled by the transferor Owner(s).

(h) The Transfer Fee shall not be payable upon transfer of a Lot used primarily for commercial purposes by an Owner who has held title solely for purposes of (1) construction of the initial improvements or (2) redevelopment for resale and/or conveyance of such Lot. Determination of the applicability of the exemption described in this subparagraph shall be made by the Association Board in its sole discretion.

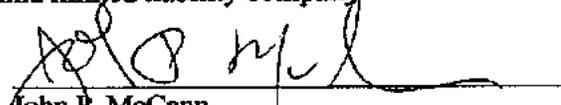
2. Run With the Land. This Amendment shall run with and bind the Property, and the Owners and Occupants thereon.

3. Amendment and Duration. This Amendment shall continue and remain in full force and effect for the duration of the term of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration. Pursuant to Section 55-515.1(F) of the Code of Virginia, 1950, as amended, this Amendment shall become effective when it is duly recorded in the Clerk's Office. Terms used herein shall have the same meaning defined in the Declaration unless specifically modified hereby.

IN WITNESS WHEREOF, this Amendment is executed as of the date and year first above written. This Amendment may be executed in two or more counterparts and by facsimile, each of which shall be an original and all of which together shall constitute one and the same instrument.

**NEW TOWN ASSOCIATES, LLC,**  
a Virginia limited liability company

By:

  
John P. McCann  
Title: Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE, to wit:

The foregoing instrument was acknowledged before me in Henrico County, Virginia, this 22 day of December, 2010, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

  
Notary Public

My commission expires: June 30, 2012.



NEW TOWN COMMERCIAL ASSOCIATION,  
a Virginia non-stock corporation

By: [Signature]  
Lawrence A. Salzman  
Title: President

**CERTIFICATION PURSUANT TO VIRGINIA CODE 55-515.1(F)**

The foregoing instrument was acknowledged before me this 22 day of December, 2010 by Lawrence A. Salzman, as President of New Town Commercial Association, Inc., a Virginia non-stock corporation, on behalf of the corporation, who did state and certify that the requisite percentage of Members have voted to approve such Amendment to Amended and Restated Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties as evidenced by their ballots and proxy forms on file with New Town Commercial Association.

[Signature]  
Notary Public #7296669

My commission expires: November 30, 2013

DOCSWMB-#6285469-v6



VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 13 Jan 2011  
at 3:04 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: [Signature] Clerk

120022436

Tax Parcel Nos. 3840100050; 3840100051; 3840100052; 3840100055; 3840100056;  
3840100057; 3840100002; 3840100003

**AMENDMENT  
TO  
AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS,  
EASEMENTS AND RESTRICTIONS  
FOR  
NEW TOWN COMMERCIAL PROPERTIES**

This AMENDMENT TO AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS (this "Amendment") is made this 8th day of May, 2012, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company, and NEW TOWN COMMERCIAL ASSOCIATION, INC., a Virginia non-stock corporation, to be indexed as "Grantor" and "Grantee" for recording purposes.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its

Prepared by and return to:  
Kaufman & Canoles, P. C.  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated November 26, 2002, and recorded in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, L.L.C., a Virginia limited liability company (the "Amended and Restated Declaration"), the Original Declaration was amended and restated in its entirety. The Amended and Restated Declaration, as now or hereinafter amended, supplemented and/or restated by instruments of record in the Clerk's Office, which amendments, supplements and/or restatements include, without limitation, that (i) Amendment and Supplemental Declaration to Amended and Restated Master Declaration of Covenants, Easements and Restrictions For New Town Commercial Properties, dated December 19, 2006, and recorded in the Clerk's Office as Instrument No. 070000159, (ii) Supplemental Declaration New Town Commercial Properties (Settler's Market), dated May 11, 2007, and recorded in the Clerk's Office as Instrument No. 070014343, and (iii) Amendment to Amended and Restated Master Declaration of Covenants, Easements and Restrictions For New Town Commercial Properties, dated December 22, 2010, and recorded in the Clerk's Office as Instrument No. 110001446, is hereinafter collectively referred to as the "Declaration". The Declaration was drawn as part of development of the Mixed Use area of James City County known as "New Town," properties in which are governed by the New Town Commercial Association, Inc. (the "Association") and the New Town Residential Association, Inc.

D. Unless otherwise defined herein, capitalized terms used herein shall have the meaning set forth in the Declaration.

E. Section 8.4 of the Declaration provides for two classes of voting membership.

F. Article XII, Section 12.2 of the Declaration provides that it may be amended (i) by Declarant without the consent of any other Owners in order to correct typographical errors, inconsistent references, scrivener's errors, grammatical mistakes or incorrect or ambiguous punctuation or to clarify an ambiguity for so long as Declarant's Class B membership continues or (ii) by a vote of the sum of: (A) two-thirds (2/3) of the Class A votes (including Class A votes held by Declarant), plus (B) the Class B vote (if any), cast by the Members of the Association.

G. The Declarant has determined that there are several inconsistent references in the Declaration and desires to correct such inconsistent references.

H. The Members of the Association and the Declarant have determined it to be in the best interests of the Association to make certain changes to the voting rights of the Class A Members as more particularly set forth below.

I. At a meeting of the Association Board and Members of the Association held on November 17, 2011, Members holding two-thirds (2/3) or more of the Class A votes of the Association, Declarant, as the sole Class B Member, and the entire Association Board voted affirmatively to approve the Amendment to the voting rights.

#### AMENDMENT

NOW, THEREFORE, the Declaration is hereby amended and supplemented as follows:

1. Paragraph G of the Recitals is hereby amended to read as follows:

G. Declarant contemplates that certain other real estate adjoining the "Property" (as hereinafter defined) will be developed for residential use and, as such, will be subject to a different declaration than this instrument and that owners of lots in such residential development will be members of a separate homeowners association; nonetheless, Declarant contemplates that there will be areas of common concern between the "Property" and such residential

development which are addressed, in part, by clause (iv) of Section 8.2, Section 11.8 and the last sentence of the definition of "Common Area" herein.

2. Subsection 8.4(b) of the Declaration entitled Class A is hereby amended and restated in its entirety to read as follows:

(b) Class A. Class A Members shall be all Owners including Declarant. Each Class A Member shall be entitled to cast its "proportionate share" of votes. An Owner's proportionate share shall equal the product of 100 multiplied by a fraction, the numerator of which is the total Building density square footage assigned to such Owner's Lot as set forth on the chart attached hereto as Exhibit 8.4(c) (the "Density Allocation Chart") and the denominator of which is the total assigned Building density of all Lots within the Property as set forth on the Density Allocation Chart. If, following the date of recordation hereof, the allowed density of a Lot is lawfully modified, the Density Allocation Chart shall be revised accordingly by the Association Board to reflect such modification. Further, if a Lot is further subdivided or the Lot lines modified or eliminated, the resulting allocated density as among the resulting Lots shall be as lawfully determined by the Owners thereof and shall be, in the aggregate, no greater or less than that of the initial Lot(s) from which the resulting Lots are created. Said Owners of the resulting Lots shall notify the Association Board of such determination whereupon the Density Allocation Chart shall be revised accordingly by the Association Board. When more than one Person holds fee simple title to any Lot, all such Persons shall be Members and the vote for such Lot shall be exercised as they among themselves shall determine. The Person who shall be entitled to cast the vote of the Owners of such Lot shall be the Person (who may be the agent of the Owners) named in a certificate executed by all of the Owners of the Lot and filed with the secretary of the Association; however, in the absence of such named Person at a meeting, another Owner of such Lot who is present at the meeting shall be entitled to cast the vote for such Lot unless otherwise provided in the certificate.

3. Section 13.3(a) entitled Notice To Declarant is hereby updated and amended to provide that notices to the Declarant shall be addressed as follows:

If to Declarant:

New Town Associates, LLC  
P.O. Box 5010  
Williamsburg, VA 23188

with copies to:

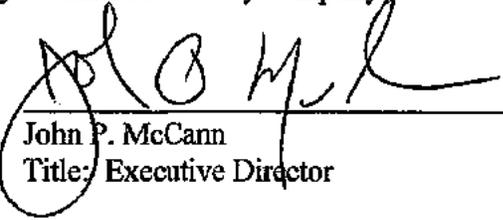
Gregory R. Davis, Esq.  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

4. Run With the Land. This Amendment shall run with and bind the Property, and the Owners and Occupants thereon.

5. Amendment and Duration. This Amendment shall continue and remain in full force and effect for the duration of the term of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration. Pursuant to Section 55-515.1(F) of the Code of Virginia, 1950, as amended, this Amendment shall become effective when it is duly recorded in the Clerk's Office. Terms used herein shall have the same meaning defined in the Declaration unless specifically modified hereby. Except as amended by this Amendment, the Declaration is hereby ratified, and as hereby amended the Declaration shall remain in full force and effect.

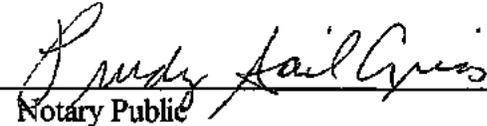
IN WITNESS WHEREOF, this Amendment is executed as of the date and year first above written. This Amendment may be executed in two or more counterparts and by facsimile, each of which shall be an original and all of which together shall constitute one and the same instrument.

NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By:   
John P. McCann  
Title: Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE, to wit:

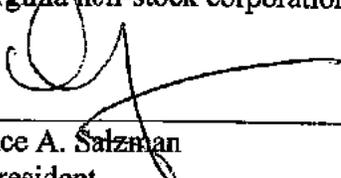
The foregoing instrument was acknowledged before me in Henrico County,  
Virginia, this 10<sup>th</sup> day of May, 2012, by John P. McCann, as Executive Director of  
New Town Associates, LLC, a Virginia limited liability company, on its behalf.

  
Notary Public

My commission expires: June 30, 2012.  
Notary Registration Number: 7189253.  
[Affix Seal]



**NEW TOWN COMMERCIAL ASSOCIATION,  
INC., a Virginia non-stock corporation**

By:   
Lawrence A. Salzman  
Title: President

**CERTIFICATION PURSUANT TO VIRGINIA CODE §55-515.1(F)**

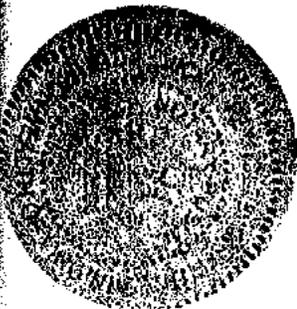
COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF Richmond, to-wit:

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of MAY, 2012 by Lawrence A. Salzman, as President of New Town Commercial Association, Inc., a Virginia non-stock corporation, on behalf of the corporation, who did state and certify that the requisite percentage of Members have voted to approve such Amendment to Amended and Restated Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties as evidenced by their ballots and proxy forms on file with New Town Commercial Association.

  
Notary Public

My commission expires: July 31, 2015  
Notary Registration Number: 7502500  
[Affix Seal]

11429582\_4.DOC



**DENSITY ALLOCATION STATEMENT**

Legal Entity	Building Name	Address	Lot / Parcel / Parcel ID	Assigned Density	Proportionate Share Assigned Density
Advantage Federal Credit Union	1st Advantage FCU	4800 Courthouse Street	Block 2 / Parcel D	8,700	0.52%
New Town Avenue, A Condominium	Cogans	4324 New Town Avenue	Block 6 & 7 / Parcel C	8,100	0.49%
Courthouse St COCOA, Inc	Chesapeake	4804 Courthouse St	Block 2 / Parcel E	16,664	1.00%
Courthouse St. Owners Association	Twiddy	4808 Courthouse St	Block 2 / Parcel F	18,900	1.14%
Center St, A Condominium - 6 units + 14,519 sf	Newport Hospitality	5121 Center St	Block 5 / Parcel D & E	26,838	1.61%
Discovery Park Blvd. Condo Assoc	Casey Corner	5400 Discovery Park Blvd	Block 19 / Parcel B	29,999	1.80%
Bayport Credit Union	Bayport	4171 Ironbound Rd	Block 3 / Parcel D	4,405	0.26%
Wilton Condo - 40 units + 3,602 sf	Bennington on the Park	5215 Center Street	Block 8 / Parcel E	62,747	3.77%
Wyatt Associates, LLC	Prudential Towne Realty	4135 Ironbound Road	Parcel ID #3930100043	12,256	0.74%
Wood and Taylor, LLC	WE Wood & Associates	5208 Monticello Avenue	Block 2 / Parcel B	22,520	1.35%
Office, LLC	SunTrust	4801 Courthouse Street	Block 5 / Parcel B	60,000	3.60%
Properties, LLC	Orthopedic Group	4125 Ironbound Road	Parcel ID # 3840100049	23,810	1.43%
LLC	The Palladium	5408 Discovery Park Blvd	Block / 19 / Parcel C	19,678	1.18%
Discovery Corner Office Condominium Assoc	Discovery Corner	5360 Discovery Park Blvd.	Block 15 / Parcel B	26,500	1.59%
VENTURES, LLC	Discovery I	5300 Discovery Park Blvd.	Block 14 / Parcel D	34,981	2.10%
ery II, LLLP	Discovery II	5308 Discovery Park Blvd.	Block 14 / Parcel C	20,180	1.21%
Enterprise, LLC	Discovery Courtyard	5335 Discovery Park Blvd	Block 6 & 7 / Parcel D	6,500	0.39%
ation Sq. Condo - 54 units + 26,503 sf	Foundation Square	5414 Foundation Street	Block 10 / Parcel D	114,235	6.86%
Leaf Condo - 6 units + 14,609 sf	Green Leaf Building	4345 New Town Avenue	Block 10 / Parcel B	23,310	1.40%
Enterprises, LLC	Dentist	5330 Discovery Park Blvd.	Block 14 / Parcel B-1	6,260	0.38%
Real Estate Holdings, LLC	Branscome	5372 Discovery Park Blvd.	Block 15 / Parcel C	20,000	1.20%
City County	Legacy Hall	4301 New Town Avenue	Block 9 / Parcel B	6,000	0.36%
CA, LLC	New Town Dental Arts	4939 Courthouse Street	Block 6 & 7 / Parcel E	5,020	0.30%
y Federal Credit Union	Langley Federal Credit Union	5220 Monticello Ave.	Parcel ID #3840100055	16,000	0.96%
ie Homes	Marque Homes	4175 Ironbound Road	Block 3 / Parcel C	8,000	0.48%
own Center St. Condo - 22 units + 12,774 sf	Center Street Condos	5101 Center Street	Block 5 / Parcel 1-A	35,040	2.10%
int National Bank of Phoebus	Old Point National Bank	4139 Ironbound Road	Parcel ID #3930100042	8,724	0.52%
l New Town JV, LLC - 265 units	Oxford New Town	4375 New Town Ave	Block 17 / Parcel B	293,095	17.61%
: Park Business Center Condo. Assoc	Patriot Park Business Center	5388 Discovery Park Blvd.	Block 15 / Parcel D	26,169	1.57%
son Properties, LLC	The Boulevard Building	4264 Casey Blvd	Block 13 / Parcel A	15,000	0.90%
ty Associates, LLC	Corner Pocket	4805 Courthouse St	Block 5 / Parcel C	11,560	0.69%
rann Holdings, LLC	Schumann	5309 Discovery Park Blvd	Block 3 / Parcel B	15,298	0.92%
a Medical Group	New Town Urgent Care	4374 New Town Avenue	Block 14 / Parcel E	49,200	2.96%
, LLC	Design Center	4350 New Town Avenue	Block 14 / Parcel B	13,340	0.80%
IC, LLC	The Goddard School	4280 Casey Boulevard	Section 7 / Parcel 1	10,000	0.60%
Bank	Towne Bank	5216 Monticello Avenue	Block 12 / Parcel A	20,000	1.20%
Design Build, LLC	TPMG	5424 Discovery Park Blvd.	Block 20 / Parcel C	40,000	2.40%
n, LLC	Ironbound Gym	4325 New Town Avenue	Block 10 / Parcel C	11,936	0.72%
Building Association	WEG	5209 Center Street	Block 8 / Parcel D	26,928	1.62%
nsburg Developers, LLC	Theatre and Main Street		Block 6 & 7 / Parcel B Block 3 / Parcels E, F, G Block 2 / Parcels C, H, I, J	256,719	15.42%
own Associates	Block 11 - Hotel	Center Street	Block 11	80,000	4.81%
own Associates	Block 18 - Retail	Ironbound Road	Block 18	20,000	1.20%
own Associates	Block 19 - Office	Discovery Park Boulevard	Block 19 / Parcel A (S-6)	20,000	1.20%
own Associates	Block 21 - Office	Discovery Park Boulevard	Block 21	110,000	6.61%
				<b>1,664,612</b>	<b>100.00%</b>

New Town Associates also holds 18,000 SF of unassigned density which does not vote until it is assigned. This amount is not included in the total.

NOTICE: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
 This document was admitted to record on 10-23-2012  
1:19 PM. The taxes imposed by Virginia Code  
 58.1-801, 58.1-802 & 58.1-814 have been paid.

NOTE: LOCAL TAX      ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_  
 Betsy B. Woolridge, Clerk

*Betsy B. Woolridge* Clerk      *Pamela R. R.*

040022391

**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of August 30, 2004 by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company (to be indexed as grantor), and **1ST ADVANTAGE FEDERAL CREDIT UNION**, a Federal Credit Union organized under the Federal Credit Union Act (to be indexed as grantor and grantee), and provides:

**RECITALS**

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, L.L.C. is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated August 30, 2004 and recorded in the Clerk's Office as Instrument No. 040022391 Declarant conveyed to 1ST Advantage Federal Credit Union ("1ST Advantage") certain real property comprising .27 acres, known as Block 2, Parcel D, New Town, as more particularly described in the deed (hereinafter, the "1ST Advantage Parcel").

C. The 1ST Advantage Parcel will utilize certain centralized parking to be located within a Parking Area (as defined in the Declaration) to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the 1ST Advantage Parcel are located within that

certain Parking Area (as defined in the Declaration) in New Town Sections 2 and 4, Block 2, which are substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Area"), and designated by "X" marks.

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to 1ST Advantage and attributed to the 1ST Advantage Parcel.

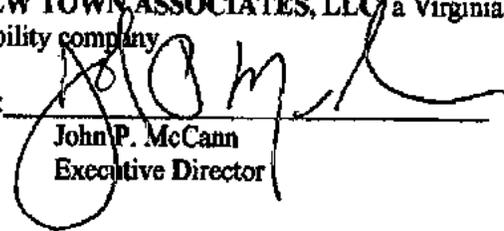
NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to 1ST Advantage thirty (30) Attributed Parking Spaces (as defined in the Declaration) within the Subject Parking Area, which spaces are hereby attributed to the 1ST Advantage Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

1ST Advantage as the Owner of the 1ST Advantage Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Area, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration, agrees that the Parking Assessments (as defined in the Declaration) for the 1ST Advantage Parcel shall be calculated based on the thirty (30) Attributed Parking Spaces herein attributed to the 1ST Advantage Parcel. 1ST Advantage acknowledges that the assignment of Attributed Parking Spaces to the 1ST Advantage Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

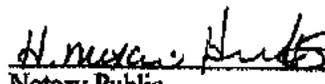
IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:   
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Henrico, to-wit:

The foregoing instrument was acknowledged before me in the City/County of Henrico, this 30th day of August, 2004, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

  
Notary Public

My commission expires: 12/31/04



1ST ADVANTAGE FEDERAL CREDIT UNION

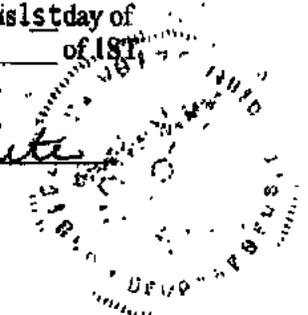
By: Adrian G. Duplantier  
Title: Adrian G. Duplantier, Jr., President

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Newport News, to-wit:

The foregoing instrument was acknowledged before me in the City/County of this 1st day of  
September, 2004, by Adrian G. Duplantier, Jr., as President of 1ST  
Federal Credit Union, a Federal credit union, on behalf of the company.

Jennifer Y. White  
Notary Public

My commission expires: 3-31-06



[AFFIX SEAL]

050013831

ASSIGNMENT OF ATTRIBUTED PARKING SPACES

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of June 9<sup>th</sup>, 2005, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and NTT, L.L.C., a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

RECITALS

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated June 9<sup>th</sup>, 2005 and recorded in the Clerk's Office as Instrument No. 05 00/3829 Declarant conveyed to NTT, L.L.C. ("NTT") a certain parcel designated as Block 6 and 7 Parcel C, New Town as more particularly described in the deed (hereinafter, the "NTT Parcel").

C. The NTT Parcel will utilize certain centralized parking to be located within Parking Areas (as defined in the Declaration) in Block 6 and 7 to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the NTT Parcel are located within those certain Parking Areas (as defined in the Declaration) in New Town Sections 2 and 4, Block 6 and 7 which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the

"Subject Parking Areas").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to NTT and attributed to the NTT Parcel.

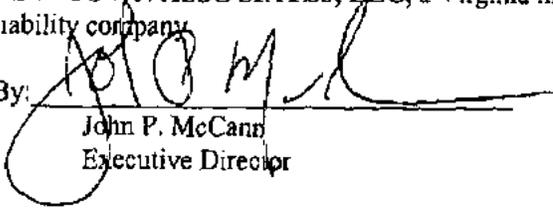
NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to NTT, Thirty (30) Parking Spaces (as defined in the Declaration) within the Subject Parking Areas, which spaces are hereby attributed to the NTT Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

NTT as the Owner of the NTT Parcel, hereby accept the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Areas, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. NTT agrees that the Parking Assessments (as defined in the Declaration) for the NTT Parcel shall be calculated based on the Thirty (30) Parking Spaces herein attributed to the NTT Parcel. NTT acknowledges that the assignment of Attributed Parking Spaces to the NTT Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

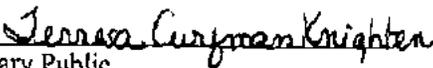
NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By: 

John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of James City, to-wit:

The foregoing instrument was acknowledged before me in the City/County of James City, this 9<sup>th</sup> day of June, 2005, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

  
Notary Public

My commission expires: 08/31/08

[AFFIX SEAL]



NTT, L.L.C., a Virginia  
limited liability company

By: [Signature]  
Title: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Williamsburg-wit:

The foregoing instrument was acknowledged before me in the City/County of  
Williamsburg, this 21<sup>st</sup> day of June, 2005, by Peter V. Henderson, the  
Member of NTT, L.L.C., a Virginia limited liability company, on behalf of the  
company.

[Signature]  
Notary Public

My commission expires: 2-28-07

#719391

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 6-22-2005  
at 10:15 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: [Signature] Clerk

PUBLIC - BEN & JERRY  
BOOK

## ASSIGNMENT OF ATTRIBUTED PARKING SPACES

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of May 19, 2004, by New Town Associates, LLC, a Virginia limited liability company (to be indexed as grantor), and Diversified Commercial Investment, LLC, a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

### RECITALS

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated May 18, 2004 and recorded in the Clerk's Office as Instrument No. 040013151, Declarant conveyed to Diversified Commercial Investment, LLC ("Diversified") certain real property comprising .3 acres as more particularly described in the deed (hereinafter, the "Diversified Parcel").

C. The Diversified Parcel will utilize certain centralized parking to be located within a Parking Area (as defined in the Declaration) to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the Diversified Parcel are located within that

certain Parking Area (as defined in the Declaration) in New Town Sections 2 and 4, Block 2, which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Area").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to Diversified and attributed to the Diversified Parcel.

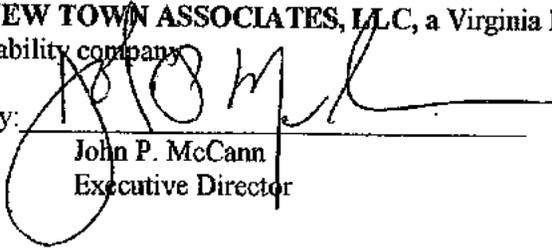
NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to Diversified forty-six (46) Attributed Parking Spaces (as defined in the Declaration) within the Subject Parking Area, which spaces are hereby attributed to the Diversified Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

Diversified as the Owner of the Diversified Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Area, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. Diversified agrees that the Parking Assessments (as defined in the Declaration) for the Diversified Parcel shall be calculated based on the forty-six (46) Attributed Parking Spaces herein attributed to the Diversified Parcel. Diversified acknowledges that the assignment of Attributed Parking Spaces to the Diversified Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

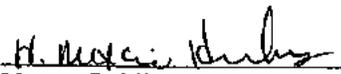
IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:   
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Henrico, to-wit:

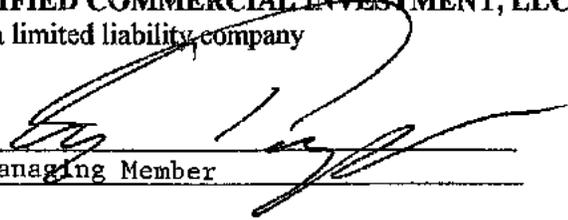
The foregoing instrument was acknowledged before me in the City/County of Henrico, this 19th day of May, 2004, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

  
Notary Public

My commission expires: 12-31-04

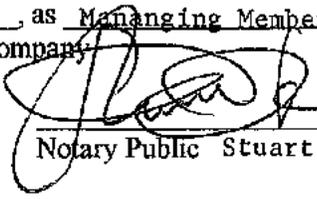
[AFFIX SEAL]

DIVERSIFIED COMMERCIAL INVESTMENT, LLC.,  
a Virginia limited liability company

By:   
Title: Managing Member

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of James City to-wit:

The foregoing instrument was acknowledged before me in the City/County of this 20th day of  
May, 2004, by Andrew M. Piplico, as Managing Member of Diversified  
Commercial Investments, LLC, Inc., on behalf of the company.

  
Notary Public Stuart D. Spirn

My commission expires: 9/30/04

[AFFIX SEAL]

040006244

**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

TAX MAP# Part of (38-4) (1-50)

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of February 26<sup>th</sup>, 2004, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and AHLM, LLC, a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

RECITALS

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated February 26<sup>th</sup>, 2004 and recorded in the Clerk's Office as Instrument No. \_\_\_\_\_, Declarant conveyed to AHLM, LLC ("AHLM") certain real property comprising .37 acres as more particularly described in the deed (hereinafter, the "AHLM Parcel").

C. The AHLM Parcel will utilize certain centralized parking to be located within a Parking Area (as defined in the Declaration) to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the AHLM Parcel are located within that certain Parking Area (as defined in the Declaration) in New Town Sections 2 and 4, Block 2, which, once

constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Area").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to AHLM and attributed to the AHLM Parcel.

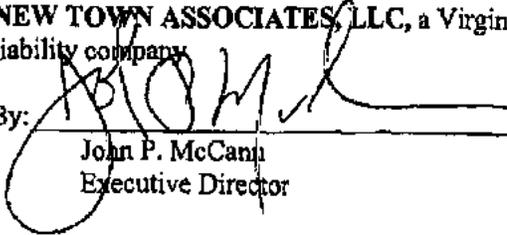
NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to AHLM sixty-seven (67) Attributed Parking Spaces (as defined in the Declaration) within the Subject Parking Area, which spaces are hereby attributed to the AHLM Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

AHLM as the Owner of the AHLM Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Area, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. AHLM agrees that the Parking Assessments (as defined in the Declaration) for the AHLM Parcel shall be calculated based on the sixty-seven (67) Attributed Parking Spaces herein attributed to the AHLM Parcel. AHLM acknowledges that the assignment of Attributed Parking Spaces to the AHLM Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*{This area intentionally left blank Signatures appear on following page.}*

IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:   
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of James City to-wit:

The foregoing instrument was acknowledged before me in the City/County of James City, this 26<sup>th</sup> day of February, 2004, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

  
Notary Public

My commission expires: April 30, 2005

[AFFIX SEAL]



AHLM, LLC, a Virginia limited liability company

By: \_\_\_\_\_  
Title: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Williamsburg to-wit:

The foregoing instrument was acknowledged before me in the City/County of this 27<sup>th</sup> day of February, 2004, by Kenneth L. Allen, as President of AHLM, LLC, on behalf of the company.

Jamie M. Slone  
Notary Public

My commission expires: 2-28-07



[AFFIX SEAL]

666020

**RETURN TO:**

**GEDDY, HARRIS, FRANCK & HICKMAN, L.L.P.**  
POST OFFICE BOX 379  
WILLIAMSBURG, VIRGINIA 23187-0379

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 17 March 04  
at 10:16 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

PLAT ATTACHED

040024037

**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of September 21<sup>st</sup>, 2004, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and SIGNATURE VENTURES, L.L.C., a Virginia limited liability company, and NHG NEWTOWN, LLC, a Virginia limited liability company (to be indexed as grantors and grantees), and provides:

**RECITALS**

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated September 21<sup>st</sup>, 2004 and recorded in the Clerk's Office as Instrument No. 040024036, Declarant conveyed to Signature Ventures, L.L.C. ("Signature Ventures") and NHG Newtown, LLC ("NHG") certain real property comprising .364 acres known as Block 5, Parcel E, New Town, as more particularly described in the deed (hereinafter, the "SIGNATURE VENTURES AND NHG Parcel").

C. The SIGNATURE VENTURES AND NHG Parcel will utilize certain centralized parking to be located within a Parking Area (as defined in the Declaration) to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the SIGNATURE VENTURES

AND NHG Parcel are located within that certain Parking Area (as defined in the Declaration) in New Town Sections 2 and 4, Block 5, which are substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Area").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to SIGNATURE VENTURES AND NHG and attributed to the SIGNATURE VENTURES AND NHG Parcel.

NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to Signature Ventures and NHG fifty-three (53) Attributed Parking Spaces (as defined in the Declaration) within the Subject Parking Area, which spaces are hereby attributed to the SIGNATURE VENTURES AND NHG Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

SIGNATURE VENTURES AND NHG as the Owner of the SIGNATURE VENTURES AND NHG Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Area, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. SIGNATURE VENTURES AND NHG agree that the Parking Assessments (as defined in the Declaration) for the SIGNATURE VENTURES AND NHG Parcel shall be calculated based on the fifty-three (53) Attributed Parking Spaces herein attributed to the SIGNATURE VENTURES AND NHG Parcel. SIGNATURE VENTURES AND NHG acknowledge that the assignment of Attributed Parking Spaces to the SIGNATURE VENTURES AND NHG Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By: [Signature]  
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Henrico, to-wit:

The foregoing instrument was acknowledged before me in the City/County of Henrico, this 21<sup>st</sup> day of September, 2004, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

[Signature]  
Notary Public

My commission expires: 2/28/05

[AFFIX SEAL]



SIGNATURE VENTURES, L.L.C., a Virginia  
limited liability company

By: [Signature]  
Title: Manager

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Williamsburg to-wit:

The foregoing instrument was acknowledged before me in the City/County of this 22<sup>nd</sup> day of September, 2004, by Kenneth L. Aiken, as Manager of SIGNATURE VENTURES, L.L.C., on behalf of the company.

[Signature]  
Notary Public

My commission expires: 12/31/04

[AFFIX SEAL]

NHG NEWTOWN, LLC, a Virginia limited liability company

By: Michael L. Plummer  
Title: Michael L. Plummer

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Williamsburg, to-wit:

The foregoing instrument was acknowledged before me in the City/County of this 22nd day of September, 2004, by Michael L. Plummer, as Manager of NHG NEWTOWN, LLC, on behalf of the company.

Wm M. Woolridge  
Notary Public

My commission expires: 12/31/04

[AFFIX SEAL]



PLAT ATTACHED

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 9-23-2004  
at 2:23 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

NWSEW

**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of June 2, 2005, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and NEWPORT NEWS SHIPBUILDING EMPLOYEES' CREDIT UNION, INC., a Virginia corporation (to be indexed as grantor and grantee), and provides:

RECITALS

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated June 2, 2005 and recorded in the Clerk's Office as Instrument No. \_\_\_\_\_, Declarant conveyed to Newport News Shipbuilding Employees' Credit Union, Inc., LLC ("Newport News") a certain parcel designated as Block 3 Parcel D, New Town as more particularly described in the deed (hereinafter, the "Newport News Parcel").

C. The Newport News Parcel will utilize certain centralized parking to be located within Parking Areas (as defined in the Declaration) in Block 3 to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the Newport News Parcel are- located within

those certain Parking Areas (as defined in the Declaration) in New Town Sections 2 and 4, Block 3 which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Areas").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to Newport News and attributed to the Newport News Parcel.

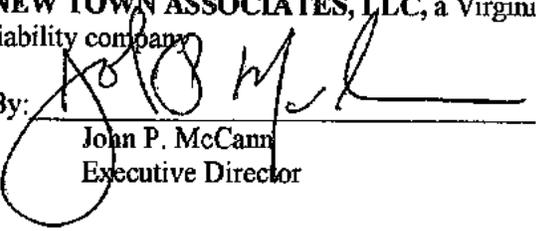
NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to Newport News, sixteen (16) Parking Spaces (as defined in the Declaration) within the Subject Parking Areas, which spaces are hereby attributed to the Newport News Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

Newport News as the Owner of the Newport News Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Areas, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. Newport News agrees that the Parking Assessments (as defined in the Declaration) for the Newport News Parcel shall be calculated based on the sixteen (16) Parking Spaces herein attributed to the Newport News Parcel. Newport News acknowledges that the assignment of Attributed Parking Spaces to the Newport News Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:   
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of James City to-wit:

The foregoing instrument was acknowledged before me in the City/County of James City, this 2<sup>nd</sup> day of JUNE, 2005, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

Terrasa Curzman Knighten  
Notary Public

My commission expires: 8/31/08

[AFFIX SEAL]

NEWPORT NEWS SHIPBUILDING EMPLOYEES'  
CREDIT UNION, INC., a Virginia corporation

By: J. B. Mears  
Title: SVP/COO

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of <sup>Newport</sup> News, to-wit:

The foregoing instrument was acknowledged before me in the City/County of  
Newport News, this 13<sup>th</sup> day of JUNE, 2005, by  
James B. Mears, SVP/COO of Newport News Shipbuilding  
Employees' Credit Union, Inc., a Virginia corporation, on behalf of the corporation.

Jean L. Dudas  
Notary Public

My commission expires: July 31, 2007

[AFFIX SEAL]

060014180

**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of September 23<sup>RD</sup>, 2004, by New Town Associates, LLC, a Virginia limited liability company (to be indexed as grantor), and Diversified Commercial Investments, LLC, a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

**RECITALS**

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated September 23, 2004 and recorded in the Clerk's Office as Instrument No. 040027807, Declarant conveyed to Diversified Commercial Investments, LLC ("Diversified") certain real property comprising .473 acres as more particularly described in the deed (hereinafter, the "Diversified Parcel").

C. The Diversified Parcel will utilize certain centralized parking to be located within a Parking Area (as defined in the Declaration) to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the Diversified Parcel are located within that

certain Parking Area (as defined in the Declaration) in New Town Sections 2 and 4, Block 8, which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Area").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to Diversified and attributed to the Diversified Parcel.

NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to Diversified forty four (44) Attributed Parking Spaces (as defined in the Declaration) within the Subject Parking Area, which spaces are hereby attributed to the Diversified Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

Diversified as the Owner of the Diversified Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Area, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. Diversified agrees that the Parking Assessments (as defined in the Declaration) for the Diversified Parcel shall be calculated based on the forty four (44) Attributed Parking Spaces herein attributed to the Diversified Parcel. Diversified acknowledges that the assignment of Attributed Parking Spaces to the Diversified Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

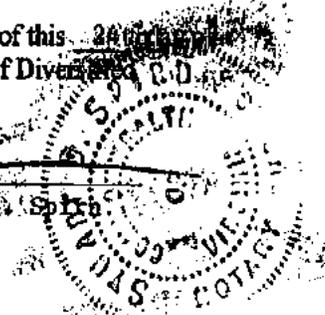


**DIVERSIFIED COMMERCIAL INVESTMENTS,  
LLC., a Virginia limited liability company**

By: [Signature]  
Title: Managing Member

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of James City-wit:

The foregoing instrument was acknowledged before me in the City/County of this 20th day of September, 2004, by Andrew M. Pipico, as Managing Member of Diversified Commercial Investments, LLC, Inc., on behalf of the company.

[Signature]  
Notary Public Stuart B. Smith  


My commission expires: 9/30/08

[AFFIX SEAL]

#691815

ASSIGNMENT OF ATTRIBUTED PARKING SPACES

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of November 26, 2002, by NEW TOWN ASSOCIATES, L.L.C., a Virginia limited liability company (to be indexed as grantor), and CASEY OFFICE, L.L.C. (to be indexed as grantor and grantee), a Virginia limited liability company, and provides:

RECITALS

A. New Town Associates, L.L.C. is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, L.L.C. is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated September 26, 2002 and recorded in the Clerk's Office as Instrument No. 020022489, Declarant conveyed to Casey Office, L.L.C. certain real property comprising 1.63 acres as more particularly described in the deed (hereinafter, the "Casey Office Parcel"). Casey Office, L.L.C. is hereinafter referred to as "Casey."

C. The Casey Parcel will utilize certain centralized parking to be located within a Parking Area (as defined in the Declaration) to be developed by Declarant and owned and

Prepared by and Return to:  
Kaufman & Canoles, P.C.  
1200 Old Colony Lane  
Williamsburg, VA 23185

Tax Map No. (38-4) (01-0-0056)

DEC 27 2002 08 63

maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the Casey Parcel are located within that certain Parking Area (as defined in the Declaration) in New Town Sections 2 and 4, Block 5, which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Area").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to Casey and attributed to the Casey Parcel.

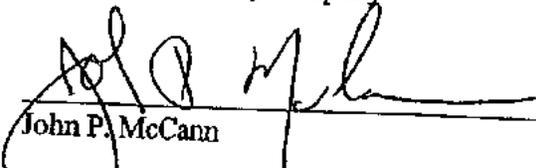
NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to Casey two hundred (200) Attributed Parking Spaces (as defined in the Declaration) within the Subject Parking Area, which spaces are hereby attributed to the Casey Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

Casey, as the Owner of the Casey Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Area, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. Casey agrees that the Parking Assessments (as defined in the Declaration) for the Casey Parcel shall be calculated based on the two hundred (200) Attributed Parking Spaces herein attributed to the Casey Parcel. Casey acknowledges that the assignment of Attributed Parking Spaces to the Casey Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank. Signatures appear on following page.]*

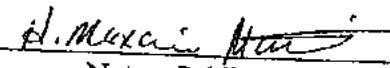
IN WITNESS WHEREOF the undersigned have caused this Declaration to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By:   
John P. McCann  
Title: Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE

The foregoing instrument was acknowledged before me in the City/County of Henrico, this 26<sup>th</sup> day of November, 2002, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

  
Notary Public

DEC 27 2002 08 65

My commission expires: 12-31-04



CASEY OFFICE, L.L.C., a Virginia limited liability company

By: Robert T. Casey  
Robert T. Casey

Title: Secretary

COMMONWEALTH OF VIRGINIA  
AT LARGE

The foregoing instrument was acknowledged before me in the City/County of James City, this 26<sup>th</sup> day of December, 2002, by Robert T. Casey, as Secretary of Casey Office, L.L.C., a Virginia limited liability company, on its behalf.

TERRI REED  
Notary Public

DEC 27 2002 08 56

My commission expires: 6-30-04

[AFFIX SEAL]



VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 27 Dec 02  
at 3:41 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX

\$ — \$ — \$ —

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

PLAT ATTACHED

Prepared by:  
Christian & Barton, L.L.P.  
909 East Main Street, Suite 1200; Richmond, VA 23219

030010944

**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of February 20, 2003, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and RIVER CITY ASSOCIATES LLC, a Virginia limited liability company (to be indexed as grantor and **\*\*grantee**), and provides: (**\*\*whose address is: 3202 Derby Lane, Williamsburg, VA 23185.**)

RECITALS

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated February 20, 2003 and recorded in the Clerk's Office as Instrument No. 030010942, Declarant conveyed to River City Associates LLC ("River City") certain real property comprising .25 acres as more particularly described in the deed (hereinafter, the "River City Parcel").

C. The River City Parcel will utilize certain centralized parking to be located within a Parking Area (as defined in the Declaration) to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the River City Parcel are located within that

APR 18 02 31

certain Parking Area (as defined in the Declaration) in New Town Sections 2 and 4, Block 5, which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Area").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to River City and attributed to the River City Parcel.

NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to River City thirty six (36) Attributed Parking Spaces (as defined in the Declaration) within the Subject Parking Area, which spaces are hereby attributed to the River City Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

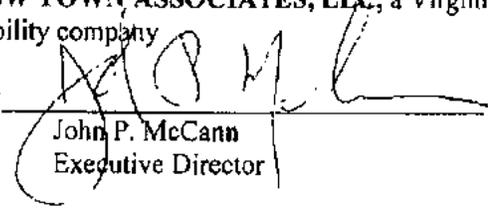
River City as the Owner of the River City Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Area, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. River City agrees that the Parking Assessments (as defined in the Declaration) for the River City Parcel shall be calculated based on the thirty six (36) Attributed Parking Spaces herein attributed to the River City Parcel. River City acknowledges that the assignment of Attributed Parking Spaces to the River City Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

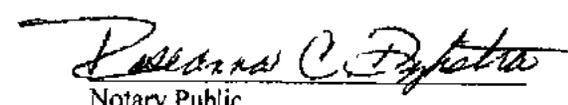
NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:

  
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE

The foregoing instrument was acknowledged before me in the City/County of James City, this 20<sup>th</sup> day of February, 2003, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

  
Notary Public

My commission expires: April 30, 2005

[AFFIX SEAL]

APR 18 02 33

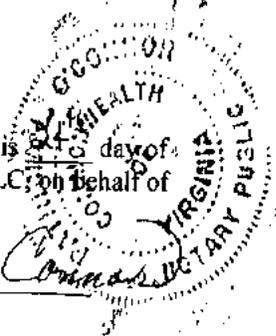
RIVER CITY ASSOCIATES LLC, a  
Virginia limited liability company

By: *Lyn R. Allison*  
Lyn R. Allison  
Title: MEMBER

COMMONWEALTH OF VIRGINIA  
AT LARGE  
City of Williamsburg, to-wit:

The foregoing instrument was acknowledged before me in the City/County of this 24 day of  
February, 2003, by Lyn R. Allison, as Member of River City Associates LLC, on behalf of  
the company. Lyn R. Allison

*Jatricia L. O'Connell*  
Notary Public



My commission expires: 31 March 2005

[AFFIX SEAL]

627775

After recordation return to:  
Stephen D. Harris, ESQ  
GEDDY HARRIS FRANCK & HICKMAN LLP  
P.O. BOX 379  
WILLIAMSBURG, VA 23187

APR 18 02 34

PLAT ATTACHED

050013305

Part of Tax Map (38-1)(1-50)  
ASSIGNMENT OF ATTRIBUTED PARKING SPACES

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of June 9<sup>TH</sup>, 2005, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and DMC ENTERPRISE, LLC (to be indexed as grantor and grantee), and provides:

RECITALS

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated June 9<sup>TH</sup>, 2005 and recorded in the Clerk's Office as Instrument No. 050013303 Declarant conveyed to DMC Enterprise, LLC ("DMC") a certain parcel designated as Block 6 and 7 Parcel D, New Town as more particularly described in the deed (hereinafter, the "DMC Parcel").

C. The DMC Parcel will utilize certain centralized parking to be located within Parking Areas (as defined in the Declaration) in Block 6 and 7 to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the DMC Parcel are located within those certain Parking Areas (as defined in the Declaration) in New Town Sections 2 and 4, Block 6 and 7 which,

once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Areas").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to DMC and attributed to the DMC Parcel.

NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to DMC, Twenty Three (23) Parking Spaces (as defined in the Declaration) within the Subject Parking Areas, which spaces are hereby attributed to the DMC Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

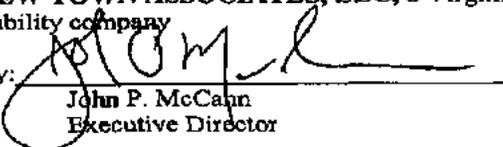
DMC as the Owners of the DMC Parcel, hereby accept the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Areas, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. DMC agrees that the Parking Assessments (as defined in the Declaration) for the DMC Parcel shall be calculated based on the Twenty Three (23) Parking Spaces herein attributed to the DMC Parcel. DMC acknowledges that the assignment of Attributed Parking Spaces to the DMC Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:

  
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of James City, to-wit:

The foregoing instrument was acknowledged before me in the City/County of James City, this 9th day of June, 2005, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

Terrisa Cunningham Knighten  
Notary Public

My commission expires: 08/31/08

[AFFIX SEAL]



DMC ENTERPRISE, LLC, a Virginia limited liability company

By: *Stephanie A. Montgomerie*  
Title: *Manager*

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Williamsburg to-wit:

The foregoing instrument was acknowledged before me in the City/County of Williamsburg, this 14<sup>th</sup> day of June, 2005, by Stephanie Montgomerie the Manager of DMC Enterprise, LLC, a Virginia limited liability company, on behalf of the company.

*Christine M. Boehm*  
Notary Public



My commission expires: 06/30/07

#717029

FLAT ATTACHED

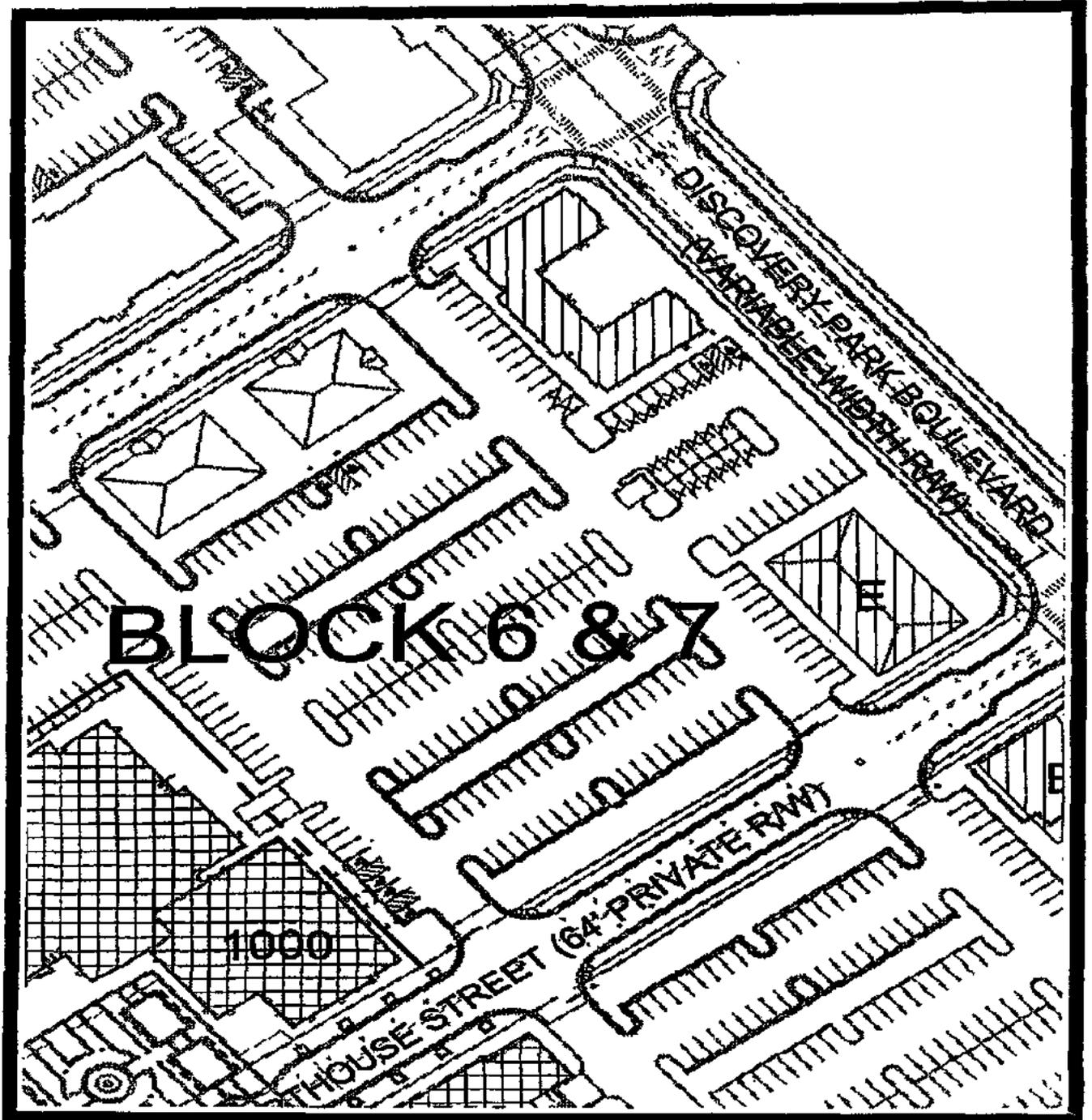
VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 15 June 05  
at 1:55 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK

BY: *Betsy B. Woolridge* Clerk

### EXHIBIT A Attributed Parking



060008988

ASSIGNMENT OF ATTRIBUTED PARKING SPACES

Porc 1 ID - Part of (38-421-50)

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is

made and entered into as of April 11<sup>th</sup>, 2006, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and FOUNDATION SQUARE, LLC, a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

RECITALS

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated April 11, 2006 and recorded in the Clerk's Office as Instrument No. 060008039, Declarant conveyed to Foundation Square, LLC ("Foundation") a certain parcel designated as Block 10, Parcel D, New Town as more particularly described in the deed (hereinafter, the "Foundation Parcel").

C. The Foundation Parcel will utilize certain centralized parking to be located within Parking Areas (as defined in the Declaration) in Block 10 to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the Foundation Parcel are located within those certain Parking Areas (as defined in the Declaration) in New Town Sections 2 and 4, Block 10 which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the

LandAmerica  
600 E. Main St., STE 1400  
Richmond, VA 23219

05-023143  
JN

"Subject Parking Areas").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to Foundation and attributed to the Foundation Parcel.

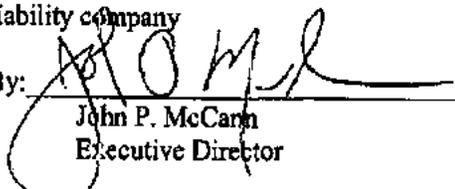
NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to Foundation, Eighty Six (86) Parking Spaces (as defined in the Declaration) within the Subject Parking Areas, which spaces are hereby attributed to the Foundation Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

Foundation as the Owner of the Foundation Parcel, hereby accept the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Areas, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. Foundation agrees that the Parking Assessments (as defined in the Declaration) for the Foundation Parcel shall be calculated based on the Eighty Six (86) Parking Spaces herein attributed to the Foundation Parcel. Foundation acknowledges that the assignment of Attributed Parking Spaces to the Foundation Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

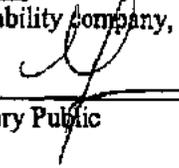
NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By: 

John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
COUNTY of HENRICO, to-wit:

The foregoing instrument was acknowledged before me in the City/County of HENRICO, this 11<sup>th</sup> day of APRIL, 2006, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

  
Notary Public

My commission expires: 2/28/2009

[AFFIX SEAL]

FOUNDATION SQUARE, LLC, a Virginia  
limited liability company  
GREENSPRINGS PLANTATION, INC  
MANAGER

By: Mark B. Sharp  
Title: PRESIDENT

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me in the City/County of  
JAMES CITY, this 14<sup>TH</sup> day of APRIL, 2006, by MARK B. SHARP, the  
PRESIDENT OF GREENSPRINGS PLANTATION, INC. MANAGER Foundation Square, LLC, a Virginia limited liability company, on  
behalf of the company.

Loetha J. Smith  
Notary Public

My commission expires: My Commission Expires August 31, 2008



#741198

**EXHIBIT A**

*[To be replaced with drawing depicting Parking Area for New Town Sections 2 and 4, Block 10]*

#741188

FLAT ATTACHED

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 4-19-2006  
at 11:31 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

060008513

Parcel ID No. Part of TAA map (38-4)(1-50)

**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of April 6<sup>th</sup>, 2006, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and AHMC, LLC, a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

**RECITALS**

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated April 12<sup>th</sup>, 2006 and recorded in the Clerk's Office as Instrument No. 060008511, Declarant conveyed to AHMC, LLC ("AHMC") a certain parcel designated as Block 10, Parcel B, New Town as more particularly described in the deed (hereinafter, the "AHMC Parcel").

C. The AHMC Parcel will utilize certain centralized parking to be located within Parking Areas (as defined in the Declaration) in Block 10 to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the AHMC Parcel are located within those certain Parking Areas (as defined in the Declaration) in New Town Sections 2 and 4, Block 10 which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Areas").

Page 1 of 5

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to AHMC and attributed to the AHMC Parcel.

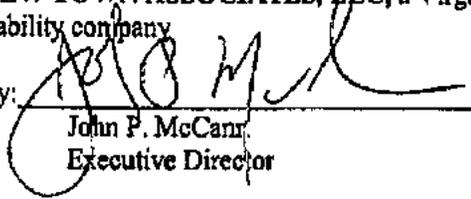
NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to AHMC Sixty ( 60 ) Parking Spaces (as defined in the Declaration) within the Subject Parking Areas, which spaces are hereby attributed to the AHMC Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

AHMC as the Owner of the AHMC Parcel, hereby accept the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Areas, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. AHMC agrees that the Parking Assessments (as defined in the Declaration) for the AHMC Parcel shall be calculated based on the Sixty ( 60 ) Parking Spaces herein attributed to the AHMC Parcel. AHMC acknowledges that the assignment of Attributed Parking Spaces to the AHMC Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

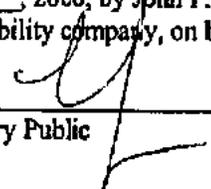
IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:   
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of HENRICO, to-wit:

The foregoing instrument was acknowledged before me in the City/County of HENRICO, this 6<sup>th</sup> day of APRIL, 2006, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

  
Notary Public

My commission expires: 2/28/09



[AFFIX SEAL]

AHMC, LLC, a Virginia  
limited liability company

By: [Signature]  
Title: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Williamsburg, to-wit:

The foregoing instrument was acknowledged before me in the City/County of Williamsburg  
Virginia, this 11<sup>th</sup> day of April, 2006, by Kenneth L. Allen, the  
member of AHMC, LLC, a Virginia limited liability company, on behalf of the  
company.

[Signature]  
Notary Public

My commission expires: 2-28-06

RETURN TO:  
GEDDY, HARRIS, FRANCK & HICKMAN, L.L.P.  
#753735 POST OFFICE BOX 379  
WILLIAMSBURG, VIRGINIA 23187-0379

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 12 April 06  
at 1:20 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.  
STATE TAX LOCAL TAX ADDITIONAL TAX

FLAT ATTACHED

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK

BY: [Signature] Clerk

050 028773

**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of November 28, 2005, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and TRI-IRON, LLC, a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

**RECITALS**

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated November 28, 2005 and recorded in the Clerk's Office as Instrument No. 0500 28773 Declarant conveyed to Tri-Iron, LLC ("Tri-Iron") a certain parcel designated as Block 10, Parcel C, New Town as more particularly described in the deed (hereinafter, the "Tri-Iron Parcel").

C. The Tri-Iron Parcel will utilize certain centralized parking to be located within Parking Areas (as defined in the Declaration) in Block 10 to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the Tri-Iron Parcel are located within those certain Parking Areas (as defined in the Declaration) in New Town Sections 2 and 4, Block 10 which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Areas").

105

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to Tri-Iron and attributed to the Tri-Iron Parcel.

NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to Tri-Iron, Forty Four (44) Parking Spaces (as defined in the Declaration) within the Subject Parking Areas, which spaces are hereby attributed to the Tri-Iron Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

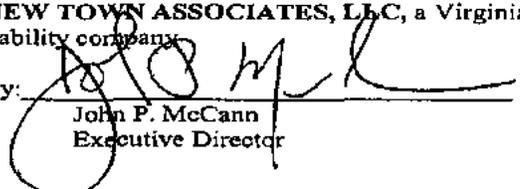
Tri-Iron as the Owner of the Tri-Iron Parcel, hereby accept the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Areas, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. Tri-Iron agrees that the Parking Assessments (as defined in the Declaration) for the Tri-Iron Parcel shall be calculated based on the Forty Four (44) Parking Spaces herein attributed to the Tri-Iron Parcel. Tri-Iron acknowledges that the assignment of Attributed Parking Spaces to the Tri-Iron Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

2025

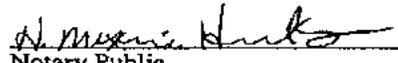
IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:   
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Henrico to-wit:

The foregoing instrument was acknowledged before me in the City/County of Henrico, this 4th day of November, 2005, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

  
Notary Public

My commission expires: December 31, 2008

[AFFIX SEAL]

375

TRI-IRON, LLC, a Virginia  
limited liability company  
By REVOCABLE LIVING TRUST OF  
SUE B GRANTON DATED JUNE 27 1997  
By: Sue B. Granton, Trustee  
Title: SOLE MEMBER

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of James City to-wit:

The foregoing instrument was acknowledged before me in the City/County of  
James City, this 2nd day of December, 2005, by Sue B. Granton, Trustee, the  
company.

She K. Walker  
Notary Public

My commission expires: 7/31/07

#735723

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 3 Dec 05  
at 11:16 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$	\$	\$

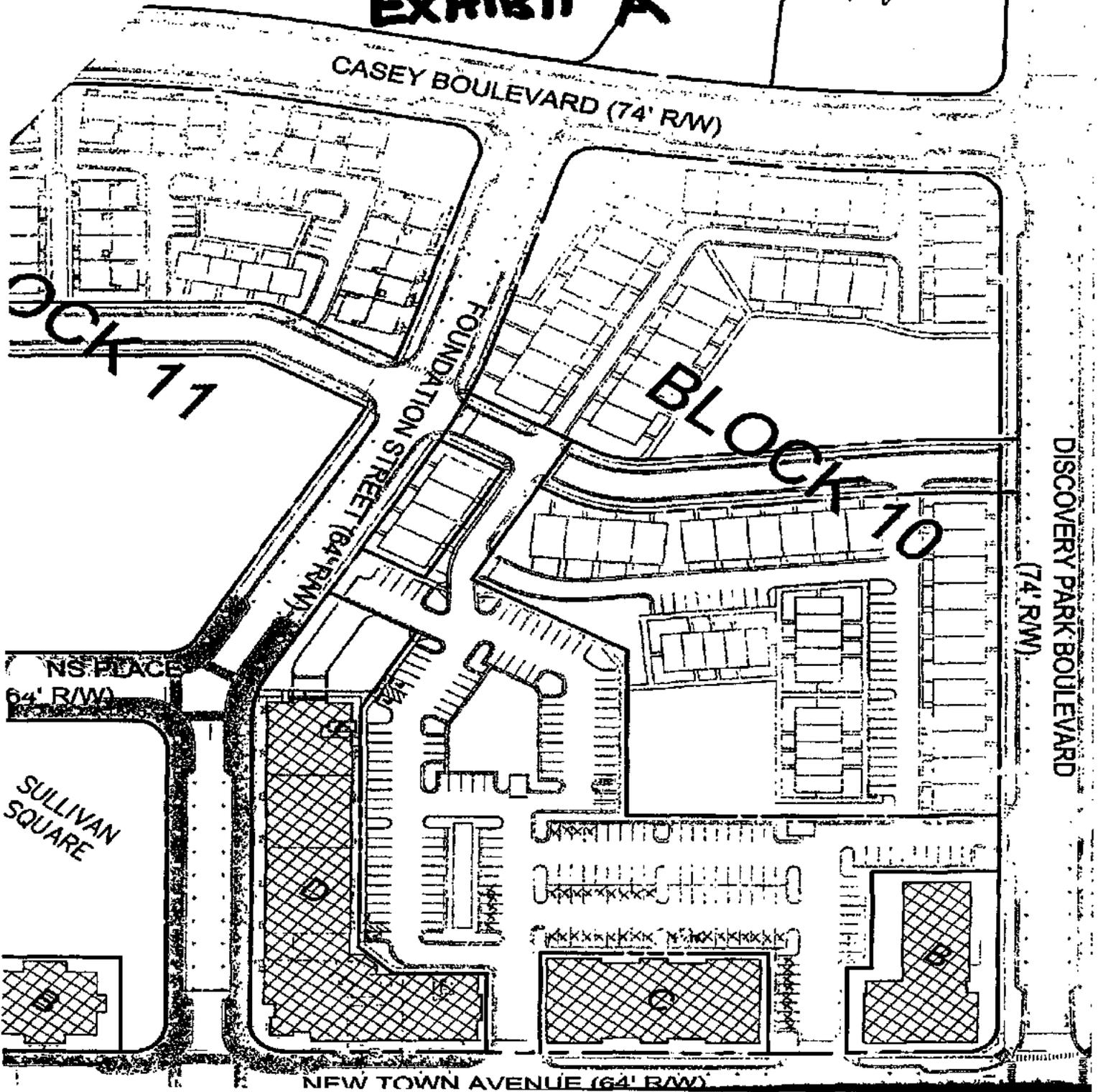
TESTE: BETSY B. WOOLRIDGE, CLERK

By: Betsy B. Woolridge Clerk

4075

# EXHIBIT A

975



DISCOVERY PARK BOULEVARD  
(74' R/W)

CASEY BOULEVARD (74' R/W)

BLOCK 11

BLOCK 10

SULLIVAN PLACE  
64' R/W

SULLIVAN SQUARE

NEW TOWN AVENUE (64' R/W)

FOUNDATION STREET (64' R/W)

060009890

File  
JTC Comm 213  
Comm BCP6

**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

Parcel ID No. PART OF TAX MAP NO. C33-4)(1-50)

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of April 27, 2006, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and JAMES CITY COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia (to be indexed as grantor and grantee), and provides:

RECITALS

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated April 27, 2006 and recorded in the Clerk's Office as Instrument No. \_\_\_\_\_, Declarant conveyed to James City County, Virginia ("James City County") a certain parcel designated as Block 9 Parcel B, New Town as more particularly described in the deed (hereinafter, the "James City County Parcel").

C. The James City County Parcel will utilize certain parking to be located within Parking Areas (as defined in the Declaration) convenient to Block 9 to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the James City County Parcel are located

within those certain Parking Areas (as defined in the Declaration) in New Town Sections 2 and 4, which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Areas").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Areas to be assigned to James City County and attributed to the James City County Parcel.

NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to James City County, thirty-five (35) Parking Spaces (as defined in the Declaration) within the Subject Parking Areas, which spaces are hereby attributed to the James City County Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

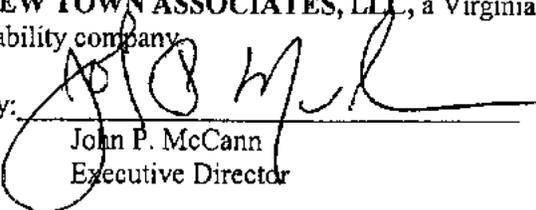
James City County as the Owner of the James City County Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Areas, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. James City County agrees that the Parking Assessments (as defined in the Declaration) for the James City County Parcel shall be calculated based on the thirty-five (35) Parking Spaces herein attributed to the James City County Parcel. James City County acknowledges that the assignment of Attributed Parking Spaces to the James City County Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

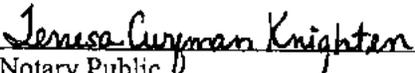
NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:

  
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of James City, to-wit:

The foregoing instrument was acknowledged before me in the City/County of James City, this 27<sup>th</sup> day of April, 2006, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

  
Notary Public

My commission expires: 08/31/08

[AFFIX SEAL]

Approved as to form

[Signature]  
County Attorney

**JAMES CITY COUNTY, VIRGINIA**, a political  
subdivision of the Commonwealth of Virginia

By: [Signature]  
Title: County Administrator

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of James City, to-wit:

The foregoing instrument was acknowledged before me in the City/County of  
JAMES CITY, this 28<sup>th</sup> day of ~~January~~ <sup>April</sup>, 2006, by SANFORD B. WANNER,  
COUNTY ADMINISTRATOR of James City County, Virginia a political subdivision of the Commonwealth of  
Virginia.

[Signature]  
Notary Public

My commission expires: July 31, 2008

[AFFIX SEAL]

#745161

**EXHIBIT A**

*[To be replaced with drawing depicting Parking Area for New Town Sections 2 and 4, Block 9]*

#745161

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 4-28-2006  
at 2:20 ~~PM~~/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

## ASSIGNMENT OF ATTRIBUTED PARKING SPACES

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of February 20, 2007, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and MARQUE HOMES BY C. R. MCLELLON BUILDER, INC., a Virginia corporation (to be indexed as grantor and grantee), and provides:

### RECITALS

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated February 20, 2007 and recorded in the Clerk's Office as Instrument No. \_\_\_\_\_, Declarant conveyed to Marque Homes By C. R. McLellon Builder, Inc. ("Marque") a certain parcel designated as Block 3 Parcel C, New Town as more particularly described in the deed (hereinafter, the "Marque Parcel").

C. The Marque Parcel will utilize certain centralized parking to be located within Parking Areas (as defined in the Declaration) in Block 3 to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the Marque Parcel are located within those certain Parking Areas (as defined in the Declaration) in New Town Sections 2 and 4, Block 3

which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Areas").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to Marque and attributed to the Marque Parcel.

NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to Marque, eighteen (18) Parking Spaces (as defined in the Declaration) within the Subject Parking Areas, which spaces are hereby attributed to the Marque Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

Marque as the Owner of the Marque Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Areas, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. Marque agrees that the Parking Assessments (as defined in the Declaration) for the Marque Parcel shall be calculated based on the eighteen (18) Parking Spaces herein attributed to the Marque Parcel. Marque acknowledges that the assignment of Attributed Parking Spaces to the Marque Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

050023858

**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

This **ASSIGNMENT OF ATTRIBUTED PARKING SPACES** (this "Assignment") is made and entered into as of May \_\_\_\_\_, 2004, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company (to be indexed as grantor), and **GCR COMMERCIAL, LLC**, a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

**RECITALS**

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated December 27, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated May 6, 2004 and recorded in the Clerk's Office as Instrument No. 040012610 Declarant conveyed to GCR Commercial, LLC ("GCR") certain real property comprising .633 acres as more particularly described in the deed (hereinafter, the "GCR Parcel").

C. The GCR Parcel will utilize certain centralized parking to be located within a Parking Area (as defined in the Declaration) to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the GCR Parcel are located within that certain Parking Area (as defined in the Declaration) in New Town Sections 2 and 4, Block 5, which, once constructed, will

be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Area").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to GCR and attributed to the GCR Parcel.

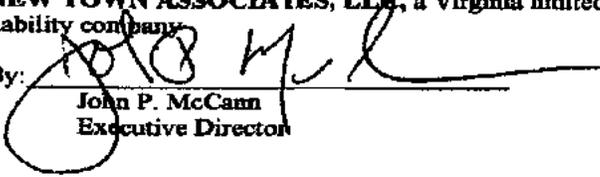
NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to GCR fifty-eight (58) Attributed Parking Spaces (as defined in the Declaration) within the Subject Parking Area, which spaces are hereby attributed to the GCR Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

GCR as the Owner of the GCR Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Area, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. GCR agrees that the Parking Assessments (as defined in the Declaration) for the GCR Parcel shall be calculated based on the fifty-eight (58) Attributed Parking Spaces herein attributed to the GCR Parcel. GCR acknowledges that the assignment of Attributed Parking Spaces to the GCR Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

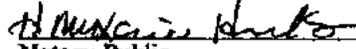
IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:   
John P. McCann  
Executive Director

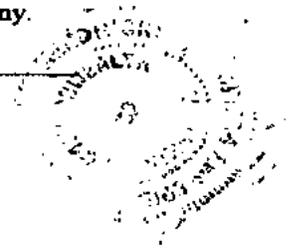
COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Henrico, to-wit:

The foregoing instrument was acknowledged before me in the City/County of Henrico, this 9th day of May, 2004, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

  
Notary Public

My commission expires: December 31, 2008

[AFFIX SEAL]



GCR COMMERCIAL, LLC, a Virginia limited liability company

By: ROBERT F. RIPLEY, JR.  
Title: MANAGER

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of James City, to-wit:

The foregoing instrument was acknowledged before me in the City/County of this 30<sup>th</sup> day of September, 2008, by Robert F. Ripley Jr. as Manager of GCR Commercial, LLC, on behalf of the company.

Nancy R. Smith  
Notary Public

My commission expires: 7/31/08

[AFFIX SEAL]

#676070

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 4-20-08  
at 3:36 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX                      LOCAL TAX                      ADDITIONAL TAX  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B. Woolridge Clerk

050030385

GCR

050023858

RE-RECORDED  
**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of May 12, 2004, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company (to be indexed as grantor), and **GCR COMMERCIAL, LLC**, a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

RECITALS

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated December 27, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated May 6, 2004 and recorded in the Clerk's Office as Instrument No. 040012610 Declarant conveyed to GCR Commercial, LLC ("GCR") certain real property comprising .633 acres as more particularly described in the deed (hereinafter, the "GCR Parcel").

C. The GCR Parcel will utilize certain centralized parking to be located within a Parking Area (as defined in the Declaration) to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the GCR Parcel are located within that certain Parking Area (as defined in the Declaration) in New Town Sections 2 and 4, Block 5, which, once constructed, will

be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Area").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to GCR and attributed to the GCR Parcel.

NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to GCR fifty-eight (58) Attributed Parking Spaces (as defined in the Declaration) within the Subject Parking Area, which spaces are hereby attributed to the GCR Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

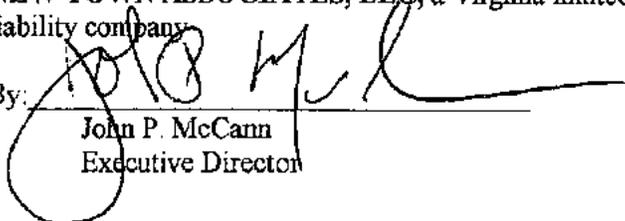
GCR as the Owner of the GCR Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Area, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. GCR agrees that the Parking Assessments (as defined in the Declaration) for the GCR Parcel shall be calculated based on the fifty-eight (58) Attributed Parking Spaces herein attributed to the GCR Parcel. GCR acknowledges that the assignment of Attributed Parking Spaces to the GCR Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:

  
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Henrico, to-wit:

The foregoing instrument was acknowledged before me in the City/County of Henrico, this 26<sup>th</sup> day of May, 2004, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

  
Notary Public

My commission expires: December 31, 2008

[AFFIX SEAL]

GCR COMMERCIAL, LLC, a Virginia limited liability company

By: ROBERT F. RIPLEY, JR.  
Title: MANAGER

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of James City, to-wit:

The foregoing instrument was acknowledged before me in the City/County of this 30<sup>th</sup> day of September, 2005, by Robert F Ripley Jr., as Manager of GCR Commercial, LLC, on behalf of the company.

Nancy R. Smith  
Notary Public

My commission expires: 7/31/08

[AFFIX SEAL]

#676070

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 12-21-2005  
at 2:14 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B Woolridge Clerk

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 4 Oct 05  
at 3:36 AM PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B Woolridge Clerk

050 012690

**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of June 6, 2005, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and LABOCCA, L.L.C., a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

**RECITALS**

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated June 6, 2005 and recorded in the Clerk's Office as Instrument No. 050012684, Declarant conveyed to LaBocca, L.L.C ("LaBocca") a certain parcel designated as Block 6 and 7 Parcel E, New Town as more particularly described in the deed (hereinafter, the "LaBocca Parcel").

C. The LaBocca Parcel will utilize certain centralized parking to be located within Parking Areas (as defined in the Declaration) in Block 6 and 7 to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the LaBocca Parcel are located within those certain Parking Areas (as defined in the Declaration) in New Town Sections 2 and 4, Block 6 and 7

1 of 5  
4/8

which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Areas").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to Newport News and attributed to the Newport News Parcel.

NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to LaBocca, seventeen (17) Parking Spaces (as defined in the Declaration) within the Subject Parking Areas, which spaces are hereby attributed to the LaBocca Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

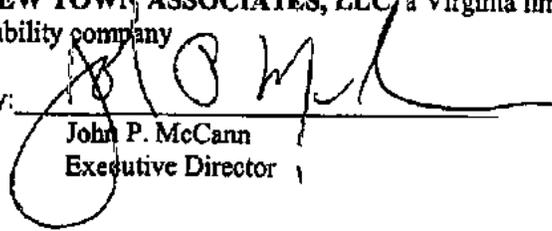
LaBocca as the Owner of the LaBocca Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Areas, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. LaBocca agrees that the Parking Assessments (as defined in the Declaration) for the LaBocca Parcel shall be calculated based on the seventeen (17) Parking Spaces herein attributed to the LaBocca Parcel. LaBocca acknowledges that the assignment of Attributed Parking Spaces to the LaBocca Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

2025  
5/8

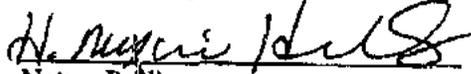
IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:   
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Henrico, to-wit:

The foregoing instrument was acknowledged before me in the City/County of Henrico, this 6<sup>th</sup> day of June, 2005, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

  
Notary Public

My commission expires: December 31, 2008

[AFFIX SEAL]

3065  
678

LABOCCA, L.L.C., a Virginia limited liability company

By: Sebastiana G. Spigman  
Title: manager

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of ~~WILLIAMSBURG~~ to-wit:

The foregoing instrument was acknowledged before me in the City/County of  
WILLIAMSBURG, this 7<sup>th</sup> day of JUNE, 2005, by  
SEBASTIANO G. SPINIGMAN MANAGER of LaBocca, L.L.C., a Virginia limited  
liability company, on behalf of the company.

[Signature]  
Notary Public

My commission expires: 11-30-07

[AFFIX SEAL]

#716998

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 8 June 05  
at 10:37 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ <u>          </u>	\$ <u>          </u>	\$ <u>          </u>

TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B. Woolridge Clerk

FLAT ATTACHED

405  
778

<b>NAME</b>	<b>ORIGINAL PROPERTY NAME</b>	<b>RECORDING DOCUMENT NUMBER</b>
WE Wood & Associates	Breck and Taylor, LLC	030026442
Casey Office, LLC	Casey Office, LLC	020031431
Schumann Holdings, LLC	Schumann Holdings, LLC	050021564
New Town Dental Arts	Labocca, LLC (Springman)	050012690
Discovery Courtyard	DMC Enterprise, LLC (Lambert)	050013305
1st Advantage Federal Credit Union	1st Advantage Federal Credit Union	040022391
4804 Courthouse Street	Whitcar, LLC (Diversified Commercial Investment)	No Recording #
4808 Courthouse Street	AHLM, LLC	040006244
Corner Pocket	River City Associates, LLC	030010944
New Town Center Street	GCR Commercial	050030385; 050023858
5121 Center Street	Signature Ventures, LLC	040024037
Marque Homes	Marques Homes by McLellan Builders	No Recording #
Green Leafe	AHMC, LLC	060008513
Ironbound Gym	Tri-Iron, LLC	050028773
Legacy Hall	James City County	060009890
WEG Building Association	H&M	060013490; 050014182
4324 New Town Ave.	NTT, LLC	050013831
Bennington on the Park	Diversified Commercial Investments, LLC	060014180
Foundation Square, Condo	Foundation Square, LLC	060008988
Bayport Credit Union	Newport News Shipbuilding Employees' Credit Union	No Recording #
Block 6/7, Parcel B	Williamsburg Developers, LLC	040026697
Block 2, Par. H, J; Block 3, Par. G	Williamsburg Developers, LLC	050027949
Block 2, Par. C, I; Block 3, Par. F, G	Williamsburg Developers, LLC	050028735
Block 2, Par. G; Block 3, Par. I	Williamsburg Developers, LLC	050009869

050021564

ASSIGNMENT OF ATTRIBUTED PARKING SPACES

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of September 1, 2005, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and SCHUMANN HOLDINGS, L.L.C., a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

RECITALS

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated September 1, 2005 and recorded in the Clerk's Office as Instrument No. 050021563 Declarant conveyed to Schumann Holdings, L.L.C. ("Schumann") a certain parcel designated as Block 3 Parcel B, New Town as more particularly described in the deed (hereinafter, the "Schumann Parcel").

C. The Schumann Parcel will utilize certain centralized parking to be located within Parking Areas (as defined in the Declaration) in Block 3 to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the Schumann Parcel are located within those certain Parking Areas (as defined in the Declaration) in New Town Sections 2 and 4, Block 6 and 7

which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Areas").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to Schumann and attributed to the Schumann Parcel.

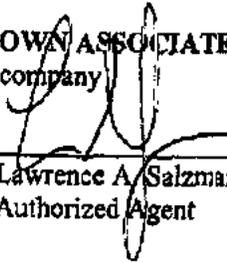
NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to Schumann, fifty nine (59) Parking Spaces (as defined in the Declaration) within the Subject Parking Areas, which spaces are hereby attributed to the Schumann Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

Schumann as the Owner of the Schumann Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Areas, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. Schumann agrees that the Parking Assessments (as defined in the Declaration) for the Schumann Parcel shall be calculated based on the fifty nine (59) Parking Spaces herein attributed to the Schumann Parcel. Schumann acknowledges that the assignment of Attributed Parking Spaces to the Schumann Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:   
Lawrence A. Salzman  
Authorized Agent

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Henrico, to-wit:

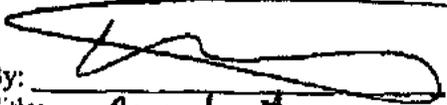
The foregoing instrument was acknowledged before me in the City/County of Henrico, this 1st day of September, 2005, by Lawrence A. Salzman, as Authorized Agent of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

  
Notary Public

My commission expires: December 31, 2005

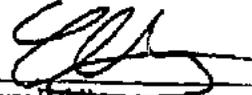
[AFFIX SEAL]

SCHUMANN HOLDINGS, L.L.C., a  
Virginia limited liability company

By:   
Title: President

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Williamsburg to-wit:

The foregoing instrument was acknowledged before me in the City/County of  
Williamsburg, this 12<sup>th</sup> day of September 2005, by Keith Schumann, the  
Manager of Schumann Holdings, L.L.C., a Virginia limited liability company, on  
behalf of the company.

  
Notary Public

My commission expires: 9/30/09

#728337

(384)(1-50)

050027949

CLOSED  
11/18/05  
9001C SF**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of November 18, 2005, by New Town Associates, LLC, a Virginia limited liability company (to be indexed as grantor), and Williamsburg Developers, LLC, a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

**RECITALS**

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated November 10, 2005 and recorded in the Clerk's Office as Instrument No. 050027949 Declarant conveyed to Williamsburg Developers, LLC ("Williamsburg Developers") three certain parcels designated as Block 2 Parcels H and J and Block 3 Parcel G, New Town as more particularly described in the deed (hereinafter, the "Williamsburg Developers Parcels").

C. The Williamsburg Developers Parcels will utilize certain centralized parking to be located within Parking Areas (as defined in the Declaration) in Blocks 2 and 3 to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the Williamsburg Developers Parcels are located within those certain Parking Areas (as defined in the Declaration) in New Town

10/6/

Return To: LandAmerica  
600 E. Main St., STE 1400  
Richmond, VA 23219

05-024176 R

Sections 2 and 4, Blocks 2 and 3 which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Areas").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to Williamsburg Developers and attributed to the Williamsburg Developers Parcel.

NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to Williamsburg Developers, Three Hundred Thirty Three (333) Parking Spaces (as defined in the Declaration) within the Subject Parking Areas, which spaces are hereby attributed to the Williamsburg Developers Parcels, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

Williamsburg Developers as the Owner of the Williamsburg Developers Parcels, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Areas, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. Williamsburg Developers agrees that the Parking Assessments (as defined in the Declaration) for the Williamsburg Developers Parcels shall be calculated based on the Three Hundred Thirty Three (333) Parking Spaces herein attributed to the Williamsburg Developers Parcels. Williamsburg Developers acknowledges that the assignment of Attributed Parking Spaces to the Williamsburg Developers Parcels is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

*20 14*

IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:

*[Signature]*  
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Henrico, to-wit:

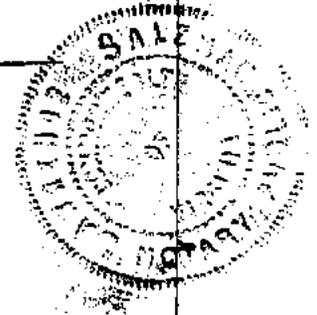
The foregoing instrument was acknowledged before me in the City/County of Henrico, this 10<sup>th</sup> day of NOVEMBER, 2005, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

*[Signature]*  
Notary Public

My commission expires:

2/28/09

[AFFIX SEAL]



3094

WILLIAMSBURG DEVELOPERS, LLC., a Virginia  
limited liability company

By: Wayne Eisenbaum

Wayne Eisenbaum

Title: Manager

STATE OF CONNECTICUT )

) ss. West Hartford

COUNTY OF HARTFORD )

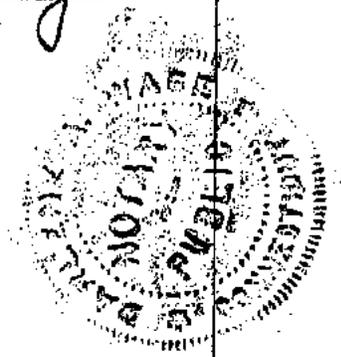
The foregoing instrument was acknowledged before me in the County of Hartford this  
14 day of November, 2005, by Wayne Eisenbaum, as the Manager of Williamsburg  
Developers, LLC, on behalf of the company.

Darlene A. Wage  
Notary Public

My commission expires:

~~DARLENE A. WAGE~~  
~~NOTARY PUBLIC~~  
~~MY COMMISSION EXPIRES AUG. 31, 2007~~

[AFFIX SEAL]



#736306

4056

**EXHIBIT A**

*[To be replaced with drawing depicting Parking Area for New Town Sections 2 and 4, Blocks 3, 6 and 7]*

#736306

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 23 Jul 05  
at 1057 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

5086

CLOSED  
DEC 05

050028735

**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

5/2/08

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of December 1, 2005, by New Town Associates, LLC, a Virginia limited liability company (to be indexed as grantor), and Williamsburg Developers, LLC, a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

**RECITALS**

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated December 1, 2005 and recorded in the Clerk's Office as Instrument No. 050028733 Declarant conveyed to Williamsburg Developers, LLC ("Williamsburg Developers") four certain parcels designated as Block 2 Parcels C and I and Block 3 Parcels E and F, New Town as more particularly described in the deed (hereinafter, the "Williamsburg Developers Parcels").

C. The Williamsburg Developers Parcels will utilize certain centralized parking to be located within Parking Areas (as defined in the Declaration) in Blocks 2 and 3 to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the Williamsburg Developers Parcels are located within those certain Parking Areas (as defined in the Declaration) in New Town

1 of 6

Return To: LandAmerica  
600 E. Main St., STE 1400  
Richmond, VA 23219

05-024176a PG

Sections 2 and 4, Blocks 2 and 3 which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Areas").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to Williamsburg Developers and attributed to the Williamsburg Developers Parcel.

NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to Williamsburg Developers, One Hundred Ninety-Five (195) Parking Spaces (as defined in the Declaration) within the Subject Parking Areas, which spaces are hereby attributed to the Williamsburg Developers Parcels, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

Williamsburg Developers as the Owner of the Williamsburg Developers Parcels, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Areas, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. Williamsburg Developers agrees that the Parking Assessments (as defined in the Declaration) for the Williamsburg Developers Parcels shall be calculated based on the One Hundred Ninety-Five (195) Parking Spaces herein attributed to the Williamsburg Developers Parcels. Williamsburg Developers acknowledges that the assignment of Attributed Parking Spaces to the Williamsburg Developers Parcels is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

286

IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By: [Signature]  
John P. McCann  
Executive Director

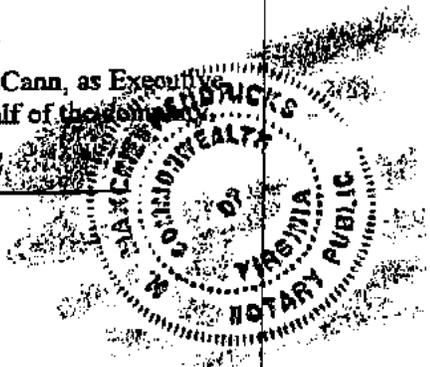
COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Henrico, to-wit:

The foregoing instrument was acknowledged before me in the City/County of Henrico, this 30<sup>th</sup> day of November, 2005, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the

[Signature]  
Notary Public

My commission expires: December 31, 2008

[AFFIX SEAL]



386



**EXHIBIT A**

*[To be replaced with drawing depicting Parking Area for New Town Sections 2 and 4, Blocks 3, 6 and 7]*

#736306

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY

This document was admitted to record on 2 Aug 06  
at 3:11 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

5 of 6

Closed  
3/05  
21935

050009869

**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

Part of: (38-4X-50)

Richmond,  
22981

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of April 29<sup>TH</sup>, 2005, by New Town Associates, LLC, a Virginia limited liability company (to be indexed as grantor), and Williamsburg Developers, LLC, a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

RECITALS

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated April 29, 2005 and recorded in the Clerk's Office as Instrument No. 050009867, Declarant conveyed to Williamsburg Developers, LLC ("Williamsburg Developers") two certain parcels designated as Block 2 Parcel G and Block 3 Parcel I, New Town as more particularly described in the deed (hereinafter, the "Williamsburg Developers Parcels").

C. The Williamsburg Developers Parcels will utilize certain centralized parking to be located within Parking Areas (as defined in the Declaration) in Blocks 2 and 3 to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the Williamsburg Developers Parcels are located within those certain Parking Areas (as defined in the Declaration) in New Town

Sections 2 and 4, Blocks 2 and 3 which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Areas").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to Williamsburg Developers and attributed to the Williamsburg Developers Parcel.

NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to Williamsburg Developers, Eighty-Two (82) Parking Spaces (as defined in the Declaration) within the Subject Parking Areas, which spaces are hereby attributed to the Williamsburg Developers Parcels, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

Williamsburg Developers as the Owner of the Williamsburg Developers Parcels, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Areas, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. Williamsburg Developers agrees that the Parking Assessments (as defined in the Declaration) for the Williamsburg Developers Parcels shall be calculated based on the Eighty-Two (82) Parking Spaces herein attributed to the Williamsburg Developers Parcels. Williamsburg Developers acknowledges that the assignment of Attributed Parking Spaces to the Williamsburg Developers Parcels is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

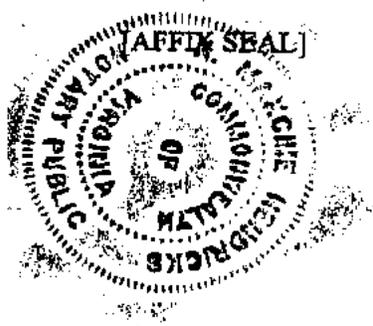
By: [Signature]  
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Henrico to-wit:

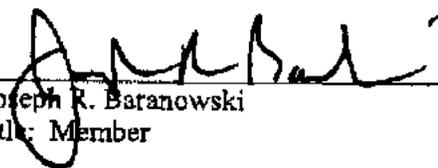
The foregoing instrument was acknowledged before me in the City/County of Henrico, this 29th day of April, 2005, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

[Signature]  
Notary Public

My commission expires: December 31, 2008



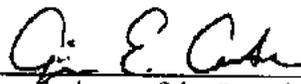
**WILLIAMSBURG DEVELOPERS, LLC.**, a Virginia  
limited liability company

By:   
Joseph R. Baranowski  
Title: Member

STATE OF CONNECTICUT    )  
  )  
  )    ss: West Hartford  
COUNTY OF HARTFORD    )

On this the 2nd day of May, 2005, before me, Gita E. Carter the  
undersigned officer, personally appeared Joseph R. Baranowski, known to me (or satisfactorily proven) to  
be the person whose name is subscribed to the within instrument and acknowledged that he executed the  
same for the purposes therein contained, and as his free act and deed.

IN WITNESS WHEREOF, I hereunto set my hand.

  
Commissioner of the Superior Court  
~~Notary Public~~  
~~My Commission Expires:~~

[AFFIX SEAL]

#710689

**EXHIBIT A**

*[To be replaced with drawing depicting Parking Area for New Town Sections 2 and 4, Blocks 3, 6 and 7]*

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 5-05-2005  
at 2:33 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

#710689

5

Prepared By:  
Gita Carter, Esq

040026697

DEC  
OCT 2004  
CLOSING  
ATTORNEY +  
40,000 SF

## ASSIGNMENT OF ATTRIBUTED PARKING SPACES

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of October 19, 2004, by New Town Associates, LLC, a Virginia limited liability company (to be indexed as grantor), and Williamsburg Developers, LLC, a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

### RECITALS

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated October 19, 2004 and recorded in the Clerk's Office as Instrument No. 040026694, Declarant conveyed to Williamsburg Developers, LLC ("Williamsburg Developers") certain real property comprising 3.05 acres as more particularly described in the deed (hereinafter, the "Williamsburg Developers Parcel").

C. The Williamsburg Developers Parcel will utilize certain centralized parking to be located within Parking Areas (as defined in the Declaration) in Blocks 3, 6 and 7 to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the Williamsburg

Developers Parcel are located within those certain Parking Areas (as defined in the Declaration) in New Town Sections 2 and 4, Blocks 3, 6 and 7, which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Areas").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to Williamsburg Developers and attributed to the Williamsburg Developers Parcel.

NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to Williamsburg Developers Four Hundred Fifty One (451) Parking Spaces (as defined in the Declaration) within the Subject Parking Areas, which spaces are hereby attributed to the Williamsburg Developers Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

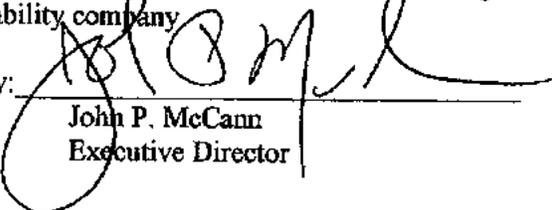
Williamsburg Developers as the Owner of the Williamsburg Developers Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Areas, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. Williamsburg Developers agrees that the Parking Assessments (as defined in the Declaration) for the Williamsburg Developers Parcel shall be calculated based on the Four Hundred Fifty One (451) Parking Spaces herein attributed to the Williamsburg Developers Parcel. Williamsburg Developers acknowledges that the assignment of Attributed Parking Spaces to the Williamsburg Developers Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:

  
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of James City, to-wit:

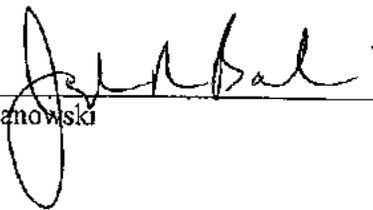
The foregoing instrument was acknowledged before me in the City/County of James City County, this 12<sup>th</sup> day of October, 2004, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

Jenese Curzman Knighten  
Notary Public

My commission expires: August 31, 2008

[AFFIX SEAL]

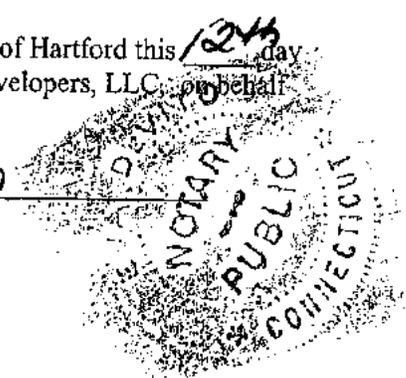
WILLIAMSBURG DEVELOPERS, LLC., a Virginia  
limited liability company

By:   
Joseph R. Baranowski  
Title: Member

STATE OF CONNECTICUT )  
                                  )ss. West Hartford  
COUNTY OF HARTFORD

The foregoing instrument was acknowledged before me in the County of Hartford this 12th day  
of October, 2004, by Joseph R. Baranowski, as a Member of Williamsburg Developers, LLC, on behalf  
of the company.

  
Notary Public



My commission expires: 11-30-07

[AFFIX SEAL]

#693193

PLAT ATTACHED

030 026442

**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of August 26, 2003, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and BRECK AND TAYLOR, LLC, a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

**RECITALS**

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated August 26<sup>th</sup> 2003 and recorded in the Clerk's Office as Instrument No. \_\_\_\_\_, Declarant conveyed to Breck and Taylor, LLC ("Breck and Taylor") certain real property comprising .40 acres as more particularly described in the deed (hereinafter, the "Breck and Taylor Parcel").

C. The Breck and Taylor Parcel will utilize certain centralized parking to be located within a Parking Area (as defined in the Declaration) to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the Breck and Taylor Parcel are located within that certain Parking Area (as defined in the Declaration) in New Town Sections 2 and 4, Block 2, which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the

"Subject Parking Area").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to Breck and Taylor and attributed to the Breck and Taylor Parcel.

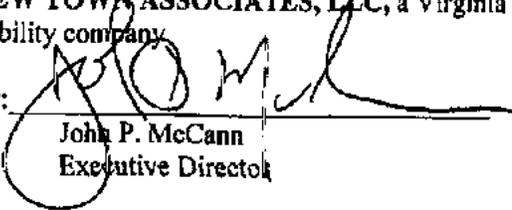
NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to Breck and Taylor seventy-five (75) Attributed Parking Spaces (as defined in the Declaration) within the Subject Parking Area, which spaces are hereby attributed to the Breck and Taylor Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

Breck and Taylor as the Owner of the Breck and Taylor Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Area, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. Breck and Taylor agrees that the Parking Assessments (as defined in the Declaration) for the Breck and Taylor Parcel shall be calculated based on the seventy-five (75) Attributed Parking Spaces herein attributed to the Breck and Taylor Parcel. Breck and Taylor acknowledges that the assignment of Attributed Parking Spaces to the Breck and Taylor Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

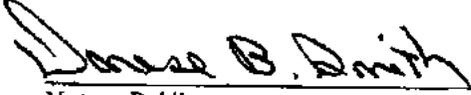
IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:   
John P. McCann  
Executive Director

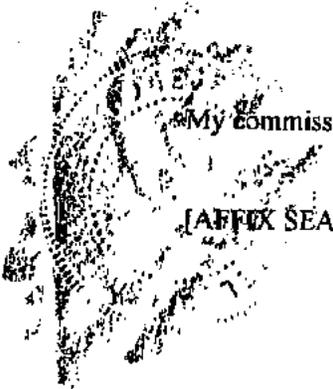
COMMONWEALTH OF VIRGINIA  
AT LARGE

The foregoing instrument was acknowledged before me in the City/County of Richmond, this 26th day of August, 2003, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

  
Notary Public

My commission expires: Jan. 31, 2007

[AFFIX SEAL]



BRECK AND TAYLOR, LLC, a  
Virginia limited liability company

By: W. Breck Wood  
Title: Member

COMMONWEALTH OF VIRGINIA  
AT LARGE

The foregoing instrument was acknowledged before me in the City/County of this 2<sup>nd</sup> day of September, 2003, by W. Breck Wood, as managing member of Breck and Taylor, LLC, on behalf of the company.

[Signature]  
Notary Public

My commission expires: 10/31/04



VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 4 Sept. 03  
at 11:19 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

PLAT ATTACHED

STATE TAX      LOCAL TAX      ADDITIONAL TAX  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B. Woolridge Clerk

THIS DEED PREPARED BY:  
Christian & Barton, L.L.P.  
909 East Main Street, Suite 1200  
Richmond, VA 23219

060 013490

**ASSIGNMENT OF ATTRIBUTED PARKING SPACES**

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of <sup>11/16/04</sup> ~~September~~ <sup>24</sup>, 200<sup>5</sup>, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and H & M New Town, LLC, a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

**RECITALS**

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated December 27, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated 6/21/2005 and recorded in the Clerk's Office as Instrument No. 050014130 Declarant conveyed to H & M New Town, LLC ("H & M") certain real property comprising .39 acres as more particularly described in the deed (hereinafter, the "H&M Parcel").

C. The H & M Parcel will utilize certain centralized parking to be located within a Parking Area (as defined in the Declaration) to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the H & M Parcel are located within that certain

Parking Area (as defined in the Declaration) in New Town Sections 2 and 4, Block 8, which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Area").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to H & M and attributed to the H & M Parcel.

NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to H & M ninety three (93) Attributed Parking Spaces (as defined in the Declaration) within the Subject Parking Area, which spaces are hereby attributed to the H & M Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

H & M as the Owner of the H & M Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Area, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. H & M agrees that the Parking Assessments (as defined in the Declaration) for the H & M Parcel shall be calculated based on the ninety three (93) Attributed Parking Spaces herein attributed to the H & M Parcel. H & M acknowledges that the assignment of Attributed Parking Spaces to the H & M Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

H & M New Town, LLC, a Virginia limited liability company

By: *John F. Hagee*  
Title: MANAGER

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of James City, to-wit:

The foregoing instrument was acknowledged before me in the City/County of this 7<sup>th</sup> day of February, 2006, by John F. Hagee, as Manager of H & M New Town, LLC, on behalf of the company.

*Jessica Curzman Knighten*  
Notary Public

My commission expires: 08/31/08

[AFFIX SEAL]



IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By: [Signature]  
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of James City, to-wit:

The foregoing instrument was acknowledged before me in the City/County of James City, this 7<sup>th</sup> day of September, 2008, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

[Signature]  
Notary Public

My commission expires: 08/31/08

[AFFIX SEAL]



VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 12/19/08  
at 12:19 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: [Signature] Clerk

Prepared By: Christian + Barton, L.L.P.  
909 East Main St, Suit 1200  
Richmond, VA. 23219

050014182

ASSIGNMENT OF ATTRIBUTED PARKING SPACES

Tax MAP: 3822400003

This ASSIGNMENT OF ATTRIBUTED PARKING SPACES (this "Assignment") is made and entered into as of June 24, 2005, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company (to be indexed as grantor), and H & M NEW TOWN, LLC, a Virginia limited liability company (to be indexed as grantor and grantee), and provides:

RECITALS

A. New Town Associates, LLC is the "Declarant" under the Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties dated November 26, 2002 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 020031430, as now or hereafter amended, restated or modified of record in the Clerk's Office (collectively, the "Declaration"). New Town Associates, LLC is hereinafter referred to as "Declarant". To the extent not otherwise defined in this Assignment, defined terms used herein shall have the meanings set forth in the Declaration.

B. By Deed dated June 27, 2005 and recorded in the Clerk's Office as Instrument No. 050014180 Declarant conveyed to H & M New Town, LLC ("H & M") certain real property comprising .380 acres as more particularly described in the deed (hereinafter, the "H & M Parcel").

C. The H & M Parcel will utilize certain centralized parking to be located within a Parking Area (as defined in the Declaration) to be developed by Declarant and owned and maintained by the Association (as defined in the Declaration) pursuant to Article V of the Declaration. The parking spaces to be utilized by the H & M Parcel are located within that certain

1 of 4,

Parking Area (as defined in the Declaration) in New Town Sections 2 and 4, Block 8, which, once constructed, will be substantially as depicted on the attached Exhibit A (hereinafter the "Subject Parking Area").

D. Pursuant to Sections 5.1 and 5.2 (b) of the Declaration, Declarant has identified the number of parking spaces within the Subject Parking Area to be assigned to H & M and attributed to the H & M Parcel.

NOW, THEREFORE, in consideration of one dollar (\$1) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby assigns to H & M seventy eight (78) Attributed Parking Spaces (as defined in the Declaration) within the Subject Parking Area, which spaces are hereby attributed to the H & M Parcel, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration.

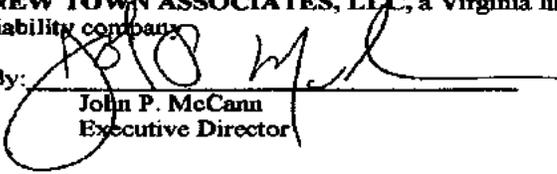
H & M as the Owner of the H & M Parcel, hereby accepts the foregoing assignment and attribution of Attributed Parking Spaces to be located within the Subject Parking Area, subject to the covenants, easements, restrictions, charges, liens and other terms and conditions of the Declaration. H & M agrees that the Parking Assessments (as defined in the Declaration) for the H & M Parcel shall be calculated based on the seventy eight (78) Attributed Parking Spaces herein attributed to the H & M Parcel. H & M acknowledges that the assignment of Attributed Parking Spaces to the H & M Parcel is subject to the provisions of the Declaration, including but not limited to the provisions regarding temporal sharing of parking spaces as set forth in Section 5.2 of the Declaration.

*[This area intentionally left blank Signatures appear on following page.]*

IN WITNESS WHEREOF the undersigned have caused this Assignment to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

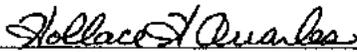
NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company

By:

  
John P. McCann  
Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of James City, to-wit:

The foregoing instrument was acknowledged before me in the City/County of James City, this 21<sup>st</sup> day of June, 2005, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on behalf of the company.

  
Notary Public

My commission expires: 6-30-05

[AFFIX SEAL]

H & M NEW TOWN, LLC.,  
a Virginia limited liability company

By: John Hagan  
Title: President

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of Newport, to-wit:

The foregoing instrument was acknowledged before me in the City/County of this 24 day of June, 2005, by John Hagan, as President of H & M New Town, LLC, Inc., on behalf of the company.

[Signature]  
Notary Public

My commission expires: 1/31/09

[AFFIX SEAL]

#720232

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 6-27-2005  
at 2:35 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B. Woolridge Clerk

4 of 4

Parcel IDs: (39-1)(01-0-0157)  
(39-1)(15-0-0003)

080 009867

**SUPPLEMENTAL DECLARATION**  
**NEW TOWN COMMERCIAL PROPERTIES**  
**(SECTIONS 3 & 6)**

THIS SUPPLEMENTAL DECLARATION is made this 8<sup>th</sup> day of April, 2008, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company, Grantor.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, recorded December 27, 2002 in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

Prepared by / return to:  
Kaufman & Canoles, P.C.  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

1 of 5

D. Declarant desires to submit the property described in Exhibit A, attached hereto and made a part hereof (the "Property") to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplement Declaration.

**AMENDMENT**

**NOW, THEREFORE**, Declarant hereby declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and

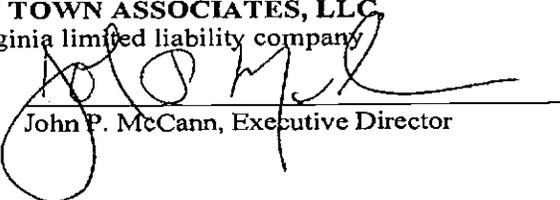
any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Use of the Name "New Town" or "New Town Commercial Association." No person or entity shall use the words "New Town" or "New Town Commercial Association" or any derivative thereof in any printed or promotional material other than in connection with advertising the location of the Owner or its business.

3. Amendment and Duration. This Supplemental Declaration shall run with and bind the Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

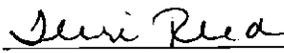
NEW TOWN ASSOCIATES, LLC  
a Virginia limited liability company

By:

  
John P. McCann, Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF James City, to-wit:

The foregoing instrument was acknowledged before me on this 8<sup>th</sup> day of April, 2008, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf, who is personally known to me, or has produced a valid form of proof of identification.

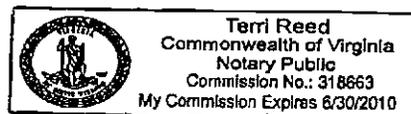
  
\_\_\_\_\_

Notary Public

Registration Number: 318663

My commission expires: 6/30/2010

3 of 5



## EXHIBIT A

All that certain lot, piece or parcel of land, together with improvements thereon and appurtenances thereto belonging, lying and being in James City County, Virginia, being "SECTION 3" and "SECTION 6", on the plat entitled, "PLAT OF SUBDIVISION SHOWING SECTION 3, SECTION 5, SECTION 6 AND LOT 13 OWNED BY NEW TOWN ASSOCIATES, LLC, JAMES CITY COUNTY, VIRGINIA", prepared by AES Consulting Engineers, dated May 7, 2003, which plat is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia, as Instrument No. 030027269, and to which plat reference is hereby made for a more particular description of the property.

LESS AND EXCEPT all that certain lot, piece or parcel of land, known and designated as BLOCK 14, PARCEL B, James City County, Virginia, being a portion of "SECTION 3" as shown on that certain plat recorded in the aforesaid Clerk's Office as Instrument Number 060006829, and being the same property conveyed by New Town Associates, LLC, a Virginia limited liability company, to Take Five, LLC, a Virginia limited liability company, by deed dated March 24, 2006, which deed is recorded in the aforesaid Clerk's Office as Instrument Number 060007236; and

LESS AND EXCEPT all that certain lot, piece or parcel of land, known and designated as BLOCK 15, PARCEL B, James City County, Virginia, being a portion of "SECTION 6" as shown on that certain plat recorded in the aforesaid Clerk's Office as Instrument Number 060013500, and being the same property conveyed by New Town Associates, LLC, a Virginia limited liability company, to CD&A, Inc, a Virginia corporation, by deed dated June 8, 2006, which deed is recorded in the aforesaid Clerk's Office as Instrument Number 060013510; and

LESS AND EXCEPT all that certain lot, piece or parcel of land, known and designated as BLOCK 15, PARCEL D, James City County, Virginia, being a portion of "SECTION 6" as shown on that certain plat recorded in the aforesaid Clerk's Office as Instrument Number 060024786, and being the same property conveyed by New Town Associates, LLC, a Virginia limited liability company, to Patriot Development Associates, LLC, a Virginia limited liability company, by deed dated October 3, 2006, which deed is recorded in the aforesaid Clerk's Office as Instrument Number 060025190; and

LESS AND EXCEPT all that certain lot, piece or parcel of land, known and designated as BLOCK 15, PARCEL C, James City County, Virginia, being a portion of "SECTION 6" as shown on that certain plat recorded in the aforesaid Clerk's Office as Instrument Number 060024786, and being the same property conveyed by New Town Associates, LLC, a Virginia limited liability company, to Walther-Thomas Family Development New Town, LLC, a Virginia limited liability company, by deed dated October 3, 2006, which deed is recorded in the aforesaid Clerk's Office as Instrument Number 060024984; and

LESS AND EXCEPT all that certain lot, piece or parcel of land, known and designated as BLOCK 17, PARCEL B, James City County, Virginia, being a portion of "SECTION 6" as shown on that certain plat recorded in the aforesaid Clerk's Office as Instrument Number 060026871, and being the same property conveyed by New Town Associates, LLC, a Virginia

limited liability company, to Oxford New Town JV LLC, a Delaware limited liability company, by deed dated October 31, 2006, which deed is recorded in the aforesaid Clerk's Office as Instrument Number 060027340; and

LESS AND EXCEPT all that certain lot, piece or parcel of land, known and designated as BLOCK 13, PARCEL A, James City County, Virginia, being a portion of "PARCEL 2" and "SECTION 6" as shown on that certain plat recorded in the aforesaid Clerk's Office as Instrument Number 060004140, and being the same property conveyed by New Town Associates, LLC, a Virginia limited liability company, to Thay, LLC, a Virginia limited liability company by deed dated January 29, 2007, which deed is recorded in the aforesaid Clerk's Office as Instrument Number 070002969; and

LESS AND EXCEPT all that certain lot, piece or parcel of land, known and designated as BLOCK 14, PARCEL C, James City County, Virginia, being a portion of "SECTION 3 and 6" as shown on that certain plat recorded in the aforesaid Clerk's Office as Instrument Number 070004370, and being the same property conveyed by New Town Associates, LLC, a Virginia limited liability company, to Discovery II, LLP, a Virginia limited liability partnership, by deed dated January 31, 2007, which deed is recorded in the aforesaid Clerk's Office as Instrument Number 070004466; and

LESS AND EXCEPT all that certain lot, piece or parcel of land, known and designated as BLOCK 14, PARCEL E, James City County, Virginia, being a portion of "SECTION 3 and 6" as shown on that certain plat recorded in the aforesaid Clerk's Office as Instrument Number 070004370, and being the same property conveyed by New Town Associates, LLC, a Virginia limited liability company, to AH Williamsburg Medical, L.L.C., a Virginia limited liability company, by deed dated March 15, 2007, which deed is recorded in the aforesaid Clerk's Office as Instrument Number 070008832; and

LESS AND EXCEPT all that certain lot, piece or parcel of land, together with improvements thereon and appurtenances thereto belonging, lying and being on the north line of Discovery Park Boulevard and west line of Ironbound Road, James City County, Virginia, shown as BLOCK 14 PARCEL D on the Subdivision Plat prepared by G. T. Wilson, Jr., which Plat is recorded in the aforesaid Clerk's Office as Instrument Number 070004370, and being the same property conveyed to CWMF Ventures LLC, a Virginia limited liability company, by deed dated January 31, 2007, which deed is recorded in the aforesaid Clerk's office as Instrument Number 070005351.

#6150623

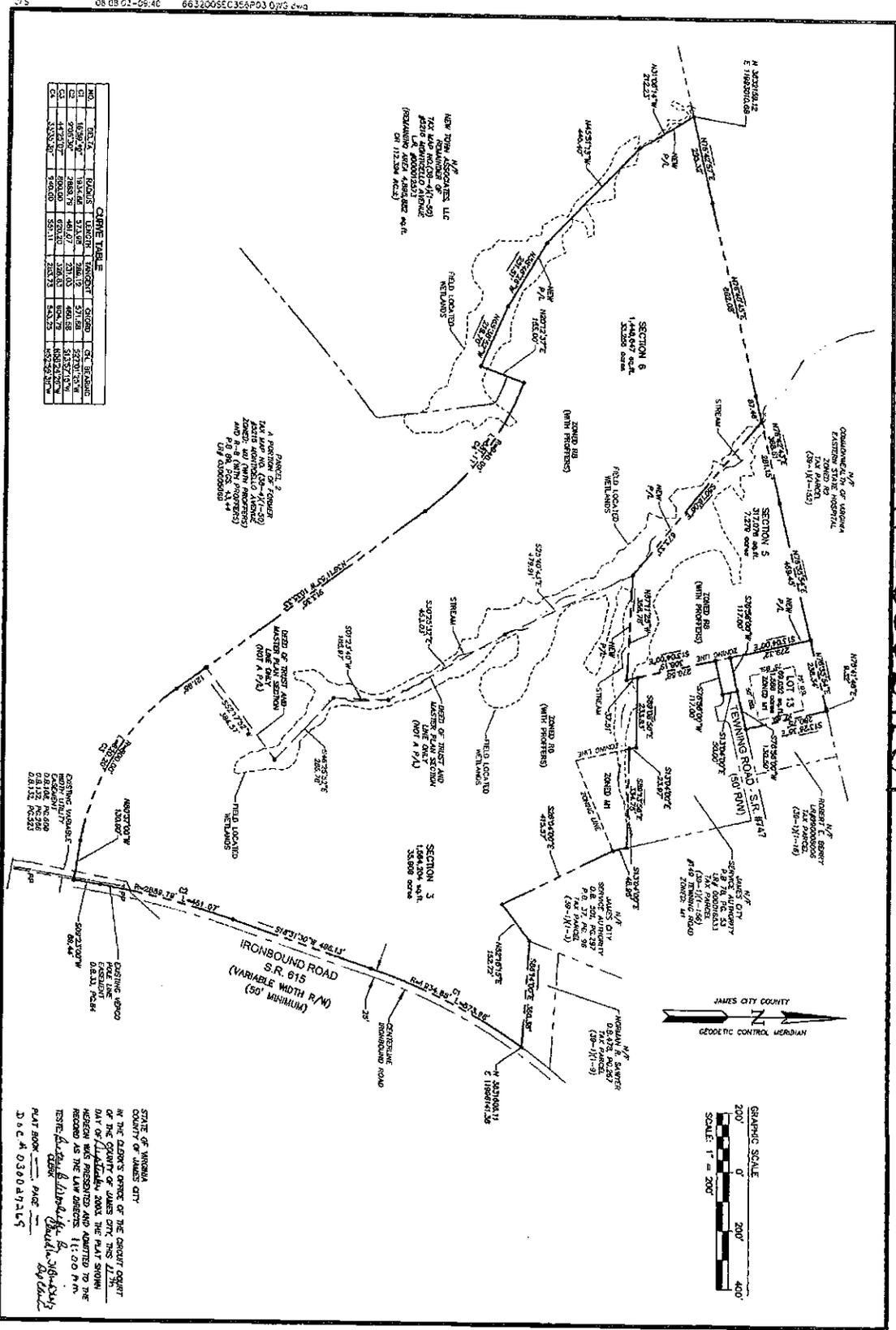
VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 11 April 08  
at 9:48 AM/PM: The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.  
STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk



#030021769



NO.	AREA	ACRES	SECTION	OWNER
1	SECTION 3	100.00	3	NEW TOWN ASSOCIATES, L.P.
2	SECTION 5	100.00	5	NEW TOWN ASSOCIATES, L.P.
3	SECTION 6	100.00	6	NEW TOWN ASSOCIATES, L.P.
4	SECTION 3	100.00	3	NEW TOWN ASSOCIATES, L.P.
5	SECTION 5	100.00	5	NEW TOWN ASSOCIATES, L.P.
6	SECTION 6	100.00	6	NEW TOWN ASSOCIATES, L.P.



5248 Old Towne Road, Suite 1  
 Williamsburg, Virginia 23188  
 (757) 253-0040  
 Fax (757) 220-8994

PLAT OF SUBDIVISION  
 SHOWING SECTION 3, SECTION 5, SECTION 6 AND LOT 13  
 OWNED BY NEW TOWN ASSOCIATES, L.P.



SECTION	DATE	BY

RECORDED DATE: 5/27/03  
 BOOK: 6632-CJ

STATE OF VIRGINIA  
 COUNTY OF JAMES CITY  
 IN THE CLERK'S OFFICE OF THE CIRCUIT COURT  
 OF THE COUNTY OF JAMES CITY THIS 11TH  
 DAY OF MAY 2003 THE PLAT SHOWING  
 HEREON WAS PRESENTED AND ADMITTED TO THE  
 RECORD AS THE LAW DIRECTS 11:00 A.M.  
 ESTE. *Estelle B. Alford*  
 CLERK  
 PLAT BOOK: PAGE  
 DOC# 030021769

050 016248

SUPPLEMENTAL DECLARATION

NEW TOWN COMMERCIAL PROPERTIES  
(NTT Property)

THIS SUPPLEMENTAL DECLARATION is made this 29<sup>th</sup> day of June, 2005, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company, Grantor; and NTT, L.L.C., a Virginia limited liability company, Grantor.

RECITALS

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia

Portion of Parcel ID No.: (38-4)(1-50)

Prepared by:

Kaufman & Canoles

4801 Courthouse Street, Suite 300

Williamsburg, VA 23188

1 of 5 /

limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. By Deed dated June 9<sup>th</sup>, 2005, and recorded in the Clerk's Office as Instrument No. 050013829, Declarant conveyed to NTT, L.L.C., a Virginia limited liability company (hereinafter, "NTT") certain real property as more particularly described in such Deed (hereinafter, the "Property"), comprising a portion of the property described in Exhibit B to the Declaration.

E. Declarant desires to submit the Property to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

F. NTT joins in this Supplemental Declaration as the fee simple owner of the Property.

#### AMENDMENT

NOW, THEREFORE, Declarant and NTT hereby declare that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

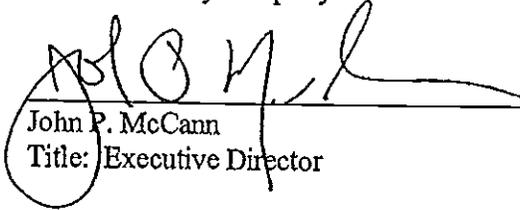
1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights,

duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Amendment and Duration. This Supplemental Declaration shall run with and bind the Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

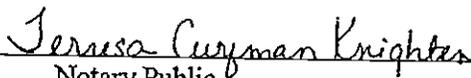
*[Remainder of page intentionally left blank. Signatures appear on following pages.]*

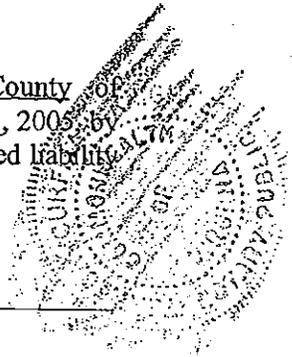
NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By:   
John P. McCann  
Title: Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in the City/County of James City, Commonwealth of Virginia on this 29<sup>th</sup> day of June, 2005, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

  
Notary Public



My commission expires: 08/31/08.

NTT, L.L.C.,  
a Virginia limited liability company

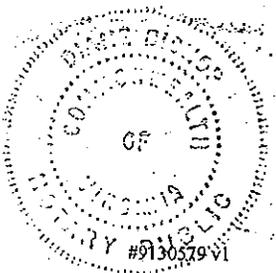
By: *Michael N. Youngblood*  
Name: Michael N. Youngblood  
Title: Co-manager

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in the City/County of James City, Commonwealth of Virginia on this 18<sup>th</sup> day of July, 2005, by Michael N. Youngblood, as Co-manager of NTT, L.L.C., a Virginia limited liability company, on its behalf.

*Shane Bishop*  
Notary Public

My commission expires: January 31, 2007



RETURN TO:  
GEDDY, HARRIS, FRANCK & HICKMAN, L.L.P.  
POST OFFICE BOX 379  
WILLIAMSBURG, VIRGINIA 23187-0379

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 19 July 2005  
at 9:37 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX                      LOCAL TAX                      ADDITIONAL TAX  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: *Betsy B. Woolridge* Clerk

050012777

**SUPPLEMENTAL DECLARATION**  
**NEW TOWN COMMERCIAL PROPERTIES**  
**(Block 2, Parcel E)**

THIS SUPPLEMENTAL DECLARATION is made this 28 day of April, 2005, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company, Grantor; and **DIVERSIFIED COMMERCIAL INVESTMENTS, LLC**, a Virginia limited liability company, Grantor.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the Portion of Parcel ID No.: 38-4-01-0-0050  
Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. By Deed dated May 18, 2004, and recorded in the Clerk's Office as Instrument No. 040013151, Declarant conveyed to DIVERSIFIED COMMERCIAL INVESTMENTS, LLC, a Virginia limited liability company (hereinafter, "DCI") certain real property as more particularly described in such Deed (hereinafter, the "Property"), comprising a portion of the property described in Exhibit B to the Declaration.

E. Declarant desires to submit the Property to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

F. DCI joins in this Supplemental Declaration as the fee simple owner of the Property.

#### **AMENDMENT**

**NOW, THEREFORE**, Declarant and DCI hereby declare that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments (as

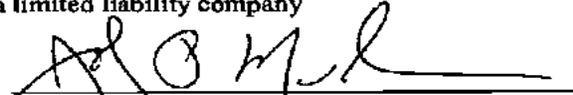
defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Amendment and Duration. This Supplemental Declaration shall run with and bind the Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

*[Remainder of page intentionally left blank. Signatures appear on following pages.]*

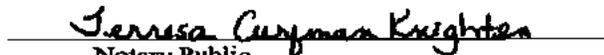
NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By:

  
\_\_\_\_\_  
John P. McCann  
Title: Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in the City/County of James City, this 19<sup>th</sup> day of May, 2005, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

  
\_\_\_\_\_  
Notary Public

My commission expires: 8/31/08



**DIVERSIFIED COMMERCIAL INVESTMENTS, LLC,**  
a Virginia limited liability company

By:  
Name:  
Title:

*[Signature]*  
*Managing Member*

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in the City/County of James City, this 20<sup>th</sup> day of MAY, 2005, by Andrew M. Pappas, as Managing Member of Diversified Commercial Investments, LLC, a Virginia limited liability company, on its behalf.

*[Signature]*  
Notary Public

My commission expires: 7/31/2008



#6059407 v2

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 5/25/05  
at 5:34 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: *[Signature]* Clerk

040024038

**SUPPLEMENTAL DECLARATION**

**NEW TOWN COMMERCIAL PROPERTIES  
(Property-Block 5, Parcel E)**

THIS SUPPLEMENTAL DECLARATION is made this 22nd day of September, 2004, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company, indexed as Grantor; and SIGNATURE VENTURES, L.L.C. ("Signature Ventures"), a Virginia limited liability company, and NHG NEWTOWN, LLC, a Virginia limited liability company ("NHG"), Signature Ventures and NHG to be indexed as Grantors.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

Parcel ID No.: 3822400001  
Prepared By:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, Virginia 23188

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. By Deed dated September 21, 2004, and recorded in the Clerk's Office as Instrument No. ~~040024036~~ Declarant conveyed a 50% undivided interest to Signature Ventures and a 50% undivided interest to NHG as tenants in common in certain real property as more particularly described in such Deed (hereinafter, the "Property"), comprising a portion of the property described in Exhibit B to the Declaration.

E. Declarant desires to submit the Property to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

F. Signature Ventures and NHG join in this Supplemental Declaration as the fee simple owners of the Property.

#### **AMENDMENT**

**NOW, THEREFORE,** Declarant and Signature Ventures and NHG hereby declare that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

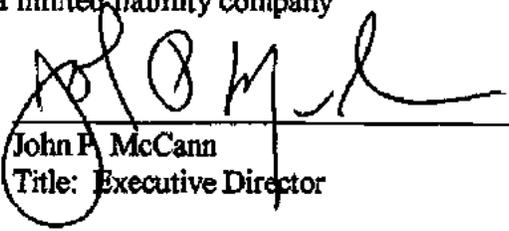
2. Assessment. Under the Declaration one (1) parking space will be assessed per residential dwelling unit. While each residential dwelling unit will be responsible for its share of general and special assessments of the Association, it will not be responsible for any assessment or charge arising through the promotional expenses of the Association, including without limitation the Transfer Fee.

3. Amendment and Duration. This Supplemental Declaration shall run with and bind the Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

*[Remainder of page intentionally left blank. Signatures appear on following pages.]*

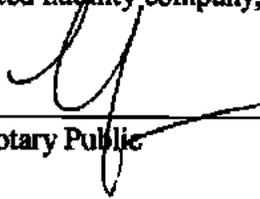
**NEW TOWN ASSOCIATES, LLC,**  
a Virginia limited liability company

By: \_\_\_\_\_

  
John P. McCann  
Title: Executive Director

**COMMONWEALTH OF VIRGINIA**  
**AT LARGE, to-wit:**

The foregoing instrument was acknowledged before me in the City/County of Henrico, this 21<sup>st</sup> day of September, 2004, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

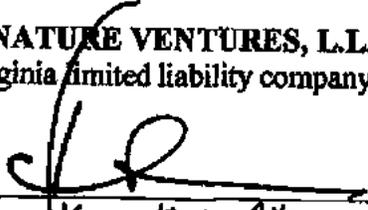
  
\_\_\_\_\_  
Notary Public



My commission expires: 2/28/05

[AFFIX SEAL]

**SIGNATURE VENTURES, L.L.C.**  
a Virginia limited liability company

By:   
Name: Kenneth L. Allen  
Title: Manager

**COMMONWEALTH OF VIRGINIA**  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in the City/County of Williamsburg, this 23rd day of September, 2004, by Kenneth L. Allen, as Manager of Signature Ventures, L.L.C., a Virginia limited liability company, on its behalf.

  
Notary Public

My commission expires: 12/31/04

[AFFIX SEAL]

NHG NEWTOWN, LLC,  
a Virginia limited liability company

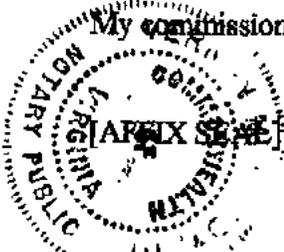
By: [Signature]  
Name: Michael L. Pleninger  
Title: Manager

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in the City/County of Williamsburg, VA this 27th day of September, 2004, by Michael L. Pleninger, as Manager of NHG Newtown, LLC, a Virginia limited liability company, on its behalf.

[Signature]  
Notary Public

My commission expires: 12/31/04



#603829 w/1 New Town/Supp. Deed/AHLM/Block 5 Parcel E

C&B #689101

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 9-23-2004  
at 2:26 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: [Signature] Clerk

050012778

**SUPPLEMENTAL DECLARATION**

**NEW TOWN COMMERCIAL PROPERTIES  
(Block 8, Parcel E)**

THIS SUPPLEMENTAL DECLARATION is made this 28 day of April, 2005, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company, Grantor; and **DIVERSIFIED COMMERCIAL INVESTMENTS, LLC**, a Virginia limited liability company, Grantor.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the

Part of Parcel ID No.: 38-2 26-0-0002  
Prepared By:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, Virginia 23188

Page 1 of 5

Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. By Deed dated September 23, 2004, and recorded in the Clerk's Office as Instrument No. 040027807, Declarant conveyed to Diversified Commercial Investments, LLC, a Virginia limited liability company (hereinafter, "DCI") certain real property as more particularly described in such Deed (hereinafter, the "Property"), comprising a portion of the property described in Exhibit B to the Declaration.

E. Declarant desires to submit the Property to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

F. DCI joins in this Supplemental Declaration as the fee simple owner of the Property.

**AMENDMENT**

**NOW, THEREFORE**, Declarant and DCI hereby declare that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

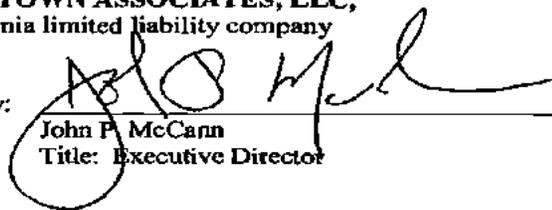
1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the

respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Assessment. Under the Declaration one (1) parking space will be assessed per residential dwelling unit. While each residential dwelling unit will be responsible for its share of general and special assessments of the Association, it will not be responsible for any assessment or charge arising through the promotional expenses of the Association, including without limitation the Transfer Fee.

3. Amendment and Duration. This Supplemental Declaration shall run with and bind the Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

**NEW TOWN ASSOCIATES, LLC,**  
a Virginia limited liability company

By: 

John P. McCann  
Title: Executive Director

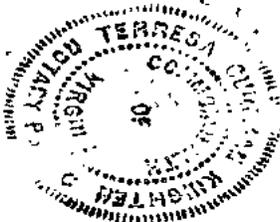
COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in the City/County of James City, this 19<sup>th</sup> day of May, 2005, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

Teressa Curjman Knighten  
Notary Public

My commission expires: 8/31/08

[AFFIX SEAL]



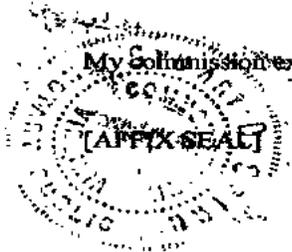
**DIVERSIFIED COMMERCIAL INVESTMENTS, LLC,**  
a Virginia limited liability company

By: [Signature]  
Name:  
Title: Managing Member

**COMMONWEALTH OF VIRGINIA**  
**AT LARGE, to-wit:**

The foregoing instrument was acknowledged before me in the City/County of James City, this 20th day of MAY, 2005, by Andrew M. P. D. Co., as Managing Member of Diversified Commercial Investments, LLC, a Virginia limited liability company, on its behalf.

[Signature]  
Notary Public



#9126841 v1

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 8 June 05  
at 3:35 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

Page 5 of 5

STATE TAX      LOCAL TAX      ADDITIONAL TAX  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B. Woolridge Clerk

040009107

**SUPPLEMENTAL DECLARATION  
(TO REMOVE A PORTION OF BMP #1)**

**THIS SUPPLEMENTAL DECLARATION** is made this 18th day of March, 2004, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company, which is the successor "Declarant" to C.C. Casey Limited Company, a Virginia limited liability company, Grantor; and **TOWNE BANK**, a Virginia banking corporation, as successor by merger to **HARBOR BANK**, a Virginia banking corporation, Grantor; and provides:

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Supplemental Declaration of Covenants, Easements and Restrictions, New Town, Southern Civic District, Designation of BMP #1 as Common Area, dated July 22, 1998, and recorded in the Clerk's Office as Instrument No. 980013869, C.C. Casey Limited Company, a Virginia limited liability company as "Declarant" under the Original Declaration, submitted certain real property more particularly described and set forth in Exhibit A thereto and generally known as "BMP #1" to the covenants, restrictions, easements, charges, liens and other provisions set forth in

Tax Parcel No. 38-4-24-0-0001  
Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

1 of 7

the Original Declaration; designated "BMP #1" as "Common Area" (as defined in the Original Declaration); and reserved to the Owners of the property described on Exhibit B thereto the right and privilege to discharge stormwater from the respective properties described on Exhibit B thereto into BMP #1.

C. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

D. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

E. By Deed dated January 15, 2004, and recorded in the Clerk's Office as Instrument No. 040001967, Declarant conveyed to Harbor Bank, a Virginia banking corporation (hereinafter, "Harbor Bank") certain real property as more particularly described in such Deed (hereinafter, the "Bank Property"), comprising a portion of the property described in Exhibit B to the Declaration.

F. On March 19, 2004, Harbor Bank and Towne Bank, a Virginia banking corporation (hereinafter, "Towne Bank") were merged by certificate of merger (the "Certificate") approved by the State Corporation Commission, with Towne Bank as the surviving entity with all rights, interests and responsibilities as the successor by merger to Harbor Bank.

G. Declarant desires to remove and release from the covenants, restrictions, easements, charges, liens and other provisions of the Declaration, that certain real property comprising 27,319 S.F. ± or 0.627 AC. ±, being a portion of the real property previously designated as “BMP #1” and “Common Area” as more particularly set forth within the shaded area shown on Exhibit A hereto (the “Removed Property”).

H. Towne Bank, as the fee simple owner of the Removed Property (which comprises a portion of the Bank Property), joins in this Supplemental Declaration for the purpose of evidencing its consent to such removal, and acknowledging that the Removed Property, together with the remainder of the Bank Property, will be submitted to the covenants, restrictions, easements, charges, liens and other provisions of the Declaration by a separate Supplemental Declaration to be recorded contemporaneously with this Supplemental Declaration.

**NOW, THEREFORE**, pursuant to the authority of Declarant as set forth in Article II, Section 2.2 of the Declaration, Declarant hereby amends the Declaration to remove and release the Removed Property from the covenants, restrictions, easements, charges, liens and other provisions of the Declaration, including without limitation, any designation of the Removed Property as “Common Area” (as defined in the Declaration) or any designation of the Removed Property as “BMP #1” or any portion thereof.

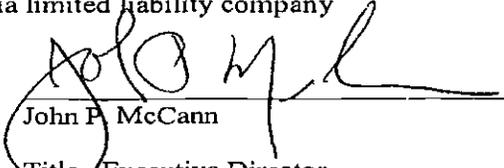
Towne Bank, as the fee simple owner of the Removed Property, joins in this Supplemental Declaration to consent to the removal and release of the Removed Property from the covenants, restrictions, easements, charges, liens and other provisions of the Declaration as set forth herein.

[This area intentionally left blank. Signatures appear on following page.]

IN WITNESS WHEREOF, the undersigned have caused this Supplemental Declaration to be executed on their behalf by their duly authorized representatives as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

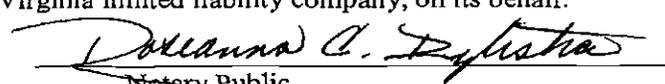
By:

  
John P. McCann

Title: Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE

The foregoing instrument was acknowledged before me in the City/County of James City, this 18<sup>th</sup> day of March, 2004, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

  
Notary Public

My commission expires: 4/30/2005

[AFFIX SEAL]



TOWNE BANK,  
a Virginia banking corporation

By: [Signature]  
Lawrence E. Wilkinson, Jr.

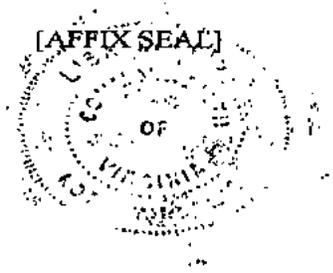
Title: SENIOR PM Vice-President and Commercial Loan  
Officer

COMMONWEALTH OF VIRGINIA  
AT LARGE

SENIOR PM The foregoing instrument was acknowledged before me in the City/County of JAMES CITY  
24<sup>th</sup> March, this 2004 day of 2004, 2004, by Lawrence E. Wilkinson, Jr., as  
Vice-President and Commercial Loan Officer of Towne Bank, a Virginia banking corporation, on  
its behalf.

Lisa Felinski  
Notary Public

My commission expires: 8-31-2009

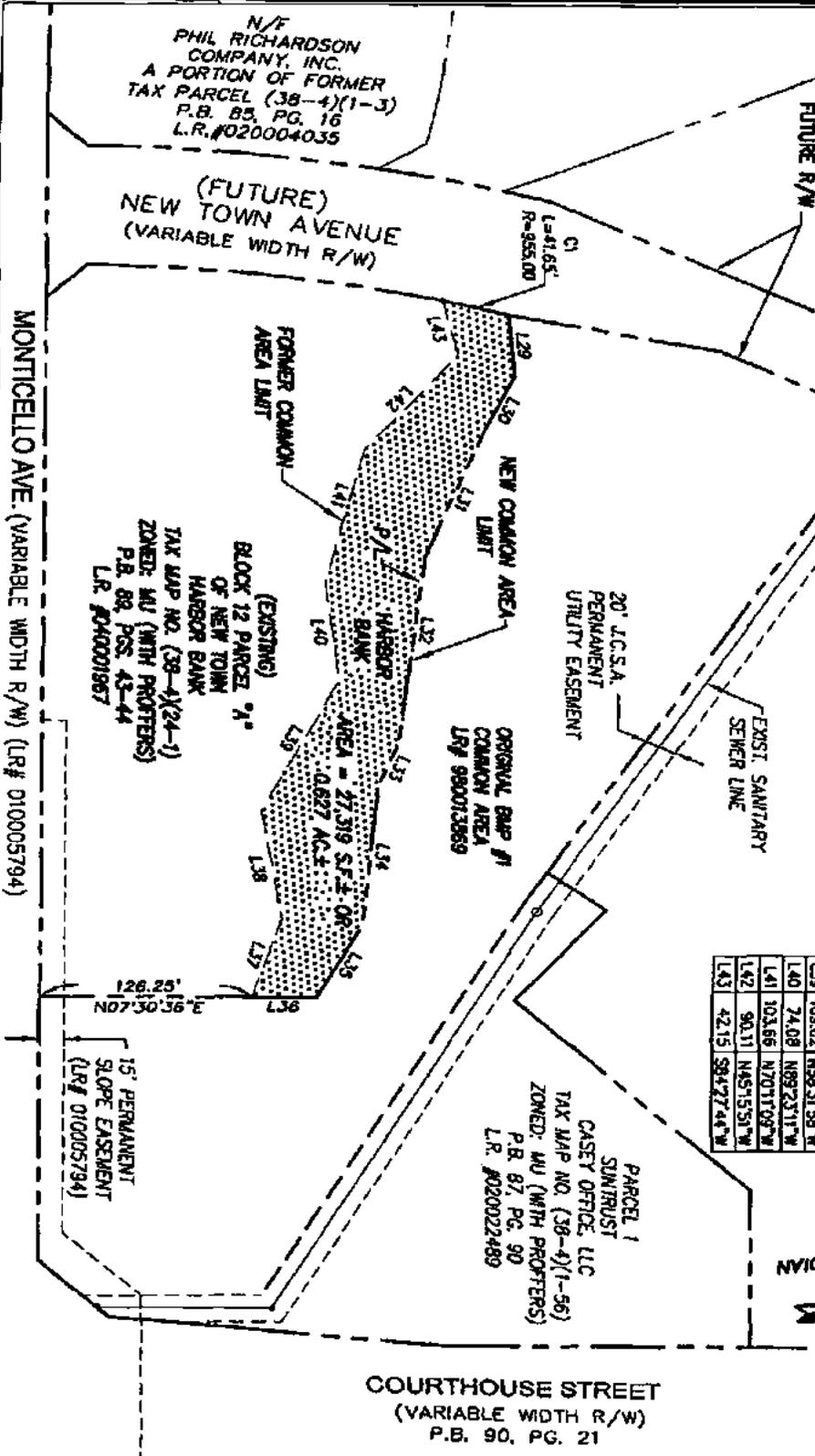


VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 30 March 04  
at 9:53 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX  
\$ — \$ — \$ —

TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B. Woolridge Clerk

PLAT ATTACHED



**CURVE TABLE**

NO.	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CH. BEARING
C1	279.58°	955.00	41.65	20.63	41.63	S2217.51°W

**LINE TABLE**

L29	46.17	S86°34.39°E
L30	50.15	S59°44.01°E
L31	86.51	S62°33.03°E
L32	142.34	S76°44.46°E
L33	36.84	S63°05.48°E
L34	103.98	S78°12.35°E
L35	61.70	S56°30.52°E
L36	38.04	S07°30.36°W
L37	61.83	N66°13.57°W
L38	82.98	S86°34.08°W
L39	108.02	N58°31.58°W
L40	74.08	N89°23.11°W
L41	103.66	N70°17.09°W
L42	90.11	N45°15.50°W
L43	42.15	S84°27.44°W

S:\JOBS\6632\E\00-Plots\Plots\Exhibits\6632\COMARE\HARBOR.dwg 02/13/04 10:42:54 AM EST

**ES Consulting Engineers**  
 Engineers, Surveyors, Planners  
 5248 Olde Towne Road, Suite 1  
 Williamsburg, Virginia 23188  
 Ph. (757)-253-0040  
 Fax (757)-220-8994

EXHIBIT A  
**EXHIBIT SHOWING  
 REVISED COMMON AREA  
 BMP #1  
 HARBOR BANK**

BERKELEY DISTRICT    JAMES CITY COUNTY    VIRGINIA

Scale: 1"=100'    Ref:    Date: 2/03/04    Job No: 6632-E

070004371

SUPPLEMENTAL DECLARATION

NEW TOWN COMMERCIAL PROPERTIES

(Block 14, Parcel C)

(Block 14, Parcel D)

DISCOVERY BLOCKS I AND II

THIS SUPPLEMENTAL DECLARATION is made this 8<sup>th</sup> day of February, 2007, by  
NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company, Grantor.

RECITALS

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, recorded on December 27, 2002 in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited

Parcel ID No. Part of Tax Map (38-4) (1-50)

Prepared by:

Kaufman & Canoles

4801 Courthouse Street, Suite 300

Williamsburg, VA 23188

liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. Declarant desires to submit the property listed on Exhibit A attached hereto and made a part hereof (the "Property"), to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

#### AMENDMENT

**NOW, THEREFORE**, Declarant hereby declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless

and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Use of the Name “New Town” or “New Town Commercial Association.” No person or entity shall use the words “New Town” or “New Town Commercial Association” or any derivative thereof in any printed or promotional material without the prior written consent of Declarant.

3. Amendment and Duration. This Supplemental Declaration shall run with and bind the Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

*[Remainder of page intentionally left blank. Signatures appear on following pages.]*

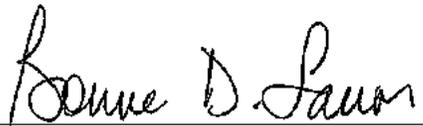
NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By:

  
\_\_\_\_\_  
John P. McCann  
Title: Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in the City/County of Williamsburg, Commonwealth of Virginia on this 8<sup>th</sup> day of February, 2007, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

  
\_\_\_\_\_

Notary Public



My commission expires: \_\_\_\_\_



EXHIBIT A

ALL that certain lot, piece or parcel of land, together with improvements thereon and appurtenances thereto belonging, lying and being on the north line of Discovery Park Boulevard, James City County, Virginia, shown as Block 14 Parcel C and Parcel D on the Subdivision Plat prepared by G. T. Wilson, Jr., dated July 31, 2006, last revised November 19, 2006, entitled "Plat of Subdivision, Block 14 Parcels A, C, D & E, Being a Portion of Sections 3 and 6, New Town, Owned by New Town Associates, LLC, Berkeley District, County of James City, Virginia", which plat is recorded as Instrument Number No. 070004370 in the Clerk's Office of the Circuit Court, James City County, Virginia and to which plat reference is hereby made for a more particular description of the property herein conveyed.

6140702\1

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 15 Feb 07  
at 11:28 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

070 013170

Parcel ID: (38-2)(24-0-0019)

**SUPPLEMENTAL DECLARATION**

**NEW TOWN COMMERCIAL PROPERTIES  
(Block 15, Parcel B)**

THIS SUPPLEMENTAL DECLARATION is made this 17<sup>th</sup> day of March, 2007, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company, Grantor and **DIVERSIFIED COMMERCIAL INVESTMENTS, LLC**, a Virginia limited liability company, Grantor.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, recorded on December 27, 2002 in the Clerk's

Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. By deed dated June 8, 2006, and recorded in the Clerk's Office as Instrument No. 060013510, Declarant conveyed to CD&A, INC., a Virginia limited liability company ("CD&A") certain real property as more particularly described in such Deed (the "Property"), comprising a portion of the property described in Exhibit B to the Declaration.

E. By deed recorded on July 17, 2006 in the Clerk's Office as Instrument No.060017119, CD&A conveyed the Property to Diversified Commercial Investment, LLC, a Virginia limited liability company ("Diversified").

F. Declarant desires to submit the Property to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

G. Diversified joins in this Supplemental Declaration as the fee simple owner of the Property.

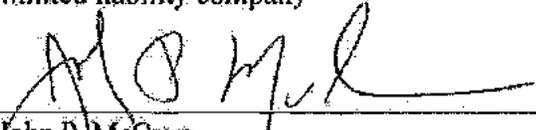
#### AMENDMENT

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners; and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Amendment and Duration. This Supplemental Declaration shall run with and bind the Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

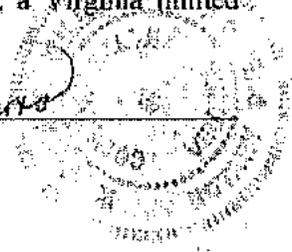
By:   
John P. McCann  
Title: Executive Director

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF HENRICO, to-wit:

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of March, 2007, by JOHN P. McCANN as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

My Commission Expires  
November 30, 2010

  
Notary Public



My commission expires: \_\_\_\_\_

[Additional signature appears on following page.]

**DIVERSIFIED COMMERCIAL INVESTMENTS, LLC,**  
a Virginia limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF James City, to-wit:

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of March, 2007, by Andy Pypico, as member of Diversified Commercial Investments, LLC, a Virginia limited liability company, on its behalf.

Shirley Reed

Notary Public

My commission expires: 6/30/2010



614071515

**JOINDER OF CHESAPEAKE BANK**

1. Chesapeake Bank is the beneficiary of that certain Credit Line Deed of Trust, dated as of June 12, 2006, from CD&A, Inc., a Virginia corporation, to Suzanne Dix Keyser and John K. O'Shaughnessy as Trustees, and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia, as Instrument No. 060013511 (the "Deed of Trust").

2. Suzanne Dix Keyser and John K. O'Shaughnessy, as trustees, at the direction of Chesapeake Bank as evidenced by its signature below, hereby subordinates the lien of the Deed of Trust to the foregoing Supplemental Declaration. It is expressly understood that except as herein subordinated, the Deed of Trust remains in full force and effect as first lien on the Mortgaged Property (as defined in the Deed of Trust).

**CHESAPEAKE BANK**

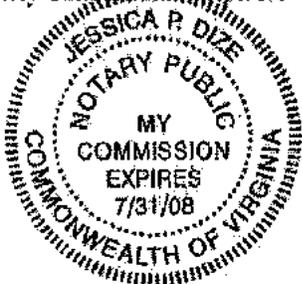
By: *[Signature]* (SEAL)  
Title: *Vice President*

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY WILLIAMSBURG, to-wit:

The foregoing instrument was acknowledged before me this 3RD day of May, 2007, by MARK J. EGGLSTON VICE PRESIDENT of Chesapeake Bank, on its behalf.

*[Signature]*  
Notary Public

My commission expires:



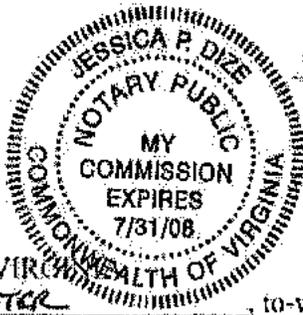
Suzanne Dix Keyser (SEAL)  
SUZANNE DIX KEYSER, Trustee

John K. O'Shaughnessy (SEAL)  
JOHN K. O'SHAUGHNESSY, Trustee

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY LANCASTER, to-wit:

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of May, 2007, by Suzanne Dix Keyser as Trustee.

My commission expires:



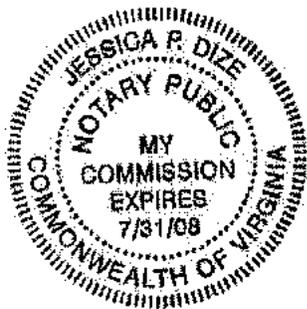
[Signature]  
Notary Public

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY LANCASTER, to-wit:

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of May, 2007, by John K. O'Shaughnessy as Trustee.

My commission expires:

[Signature]  
Notary Public



VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 7 May 07  
at 3:19 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

Parcel ID: (38-2)(24-0-0010)

070 015087

**SUPPLEMENTAL DECLARATION**

**NEW TOWN COMMERCIAL PROPERTIES  
(FOUNDATION SQUARE, LLC Property—Block 10, Parcel D)**

THIS SUPPLEMENTAL DECLARATION is made this 17<sup>th</sup> day of May, 2007, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company, Grantor, FOUNDATION SQUARE, LLC, a Virginia limited liability company, Grantor.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia

Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. By Deed dated April 6, 2006, and recorded in the Clerk's Office as Instrument No. 060008639, Declarant conveyed to Foundation Square, LLC, a Virginia limited liability company (hereinafter, "Foundation Square") certain real property as more particularly described in such Deed (hereinafter, the "Subjected Property"), comprising a portion of the property described in Exhibit B to the Declaration.

E. Declarant desires to submit the Subjected Property to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

F. Foundation Square join in this Supplemental Declaration as the fee simple owners of the Subjected Property.

#### AMENDMENT

**NOW, THEREFORE,** Declarant and Foundation Square hereby declare that the Subjected Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Subjected Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s)

of the respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Assessments and Parking.

a. General Assessments payable by Owners of residential condominium units created within the boundaries of the Lot comprising the Subjected Property (collectively, the "Residential Units") shall be calculated at an annual rate (hereinafter, the "Residential Rate") which equals sixty percent (60%) of the annual assessment rate otherwise payable pursuant to Article IX of the Declaration by owners of non-residential Lots within the Subjected Property. The General Assessments for the Residential Units shall be determined by multiplying the Residential Rate by the Assessable Square Footage. Assessable Square Footage for the Residential Units shall be defined as the sum of:

(i) The "Gross Building Square Footage" of the building(s) constructed or to be constructed on each Lot if the entire building is occupied for residential uses, or if the entire building is not occupied for residential uses, the "Gross Building Square Footage" of such portion of the building that is attributed to and/or primarily serves the Residential Units; and

(ii) The gross square footage of kiosks and temporary enclosures, if any, which are attributed to and/or serve the Residential Units.

b. Special Assessments payable by the Owners of the Residential Units shall be assessed at a rate which equals sixty percent (60%) of the special assessment rate or amount assessed unless such Special Assessment relates specifically to the Residential Units or any specific Residential Unit, in which case the Owner(s) of the applicable Residential Unit(s) shall pay the Special Assessment at the rate of one hundred percent (100%).

c. Each Residential Unit shall pay the service assessments, Limited Common Expense Assessments and the Transfer Fee provided for in Section 9.12 of the Declaration at full rate or cost without reduction.

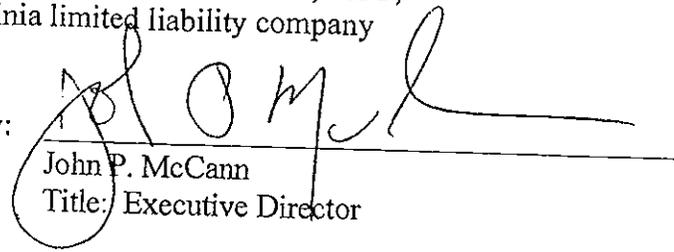
3. Amendment and Duration. This Supplemental Declaration shall run with and bind the Subjected Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

4. Definitions. Terms defined in the Declaration shall have the same meaning where used in this Supplemental Declaration.

IN WITNESS WHEREOF the undersigned have caused this Supplemental Declaration to be executed on their behalf by their duly authorized representatives as of the date and year first written above. Foundation Square represents and warrants to Declarant that it is the sole owner of the Subjected Property.

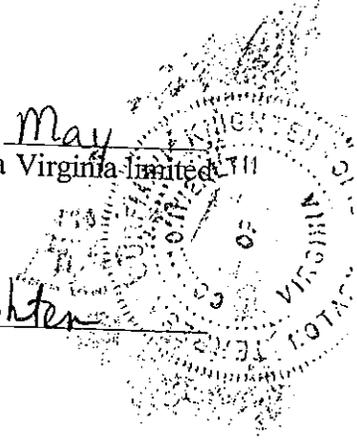
NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By:

  
John P. McCann  
Title: Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of May 2007, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

  
Terresa Curzman Knight  
Notary Public

My commission expires: 08/31/08

FOUNDATION SQUARE, LLC,  
a Virginia limited liability company

By: Greensprings Plantation, Inc., Manager

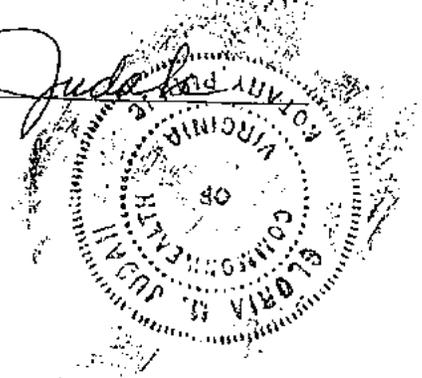
By: Marc B. Sharp  
Name: Marc B. Sharp  
Title: President

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of May, 2007, by Marc B. Sharp as President of Greensprings Plantation, Inc., as Manager of Foundation Square, LLC, a Virginia limited liability company, on its behalf.

Gloria M. Judah  
Notary Public

My commission expires: 08/31/08



**JOINDER OF SUNTRUST BANK**

1. SunTrust Bank ("SunTrust"), is the beneficiary of that certain Credit Line Deed of Trust, dated as of January 23, 2007, from Foundation Square, LLC, a Virginia limited liability company, to J. Kempton Shields and William H. Carr as Trustees, either of whom may act, and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia, as Instrument No. 070002553 (the "Deed of Trust").

2. William H. Carr, as sole-acting trustee, at the direction of SunTrust as evidenced by its signature below, hereby subordinates the lien of the Deed of Trust to the foregoing Supplemental Declaration. It is expressly understood that except as herein subordinated, the Deed of Trust remains in full force and effect as first lien on the Mortgaged Property (as defined in the Deed of Trust).

**SUNTRUST BANK**

By: William H. Carr (SEAL)  
Title: Senior Vice President

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 21 day of May, 2007, by William H. Carr, Senior Vice President of SunTrust Bank, on its behalf.

Cherrie Marie Taylor  
Notary Public

My commission expires: June 30, 2007

William H. Carr (SEAL)  
WILLIAM H. CARR, Trustee

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 21 day of May, 2007, by WILLIAM H. CARR as Trustee.

Anne Marie Taylor  
Notary Public

My commission expires: June 30, 2007

#6143882

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY

This document was admitted to record on 24 May 07  
at 2:58 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

Parcel ID: 3822400002

110018614

**SUPPLEMENTAL DECLARATION**  
**NEW TOWN COMMERCIAL PROPERTIES**  
**("Fountain Parcel" Block 6 & 7, Parcel A-1)**

THIS SUPPLEMENTAL DECLARATION is made this 19<sup>th</sup> day of April, 2011, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company [to be indexed as Grantor], and **WILLIAMSBURG DEVELOPERS, LLC**, a Virginia limited liability company [to be indexed as Grantor].

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the

Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

*Return to*  
Williamsburg Paralegal, Inc.  
4680-181 Monticello Ave. ✓  
RMB #173  
Williamsburg, VA 23188

*Receipt on Center*

Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. By Deed dated October 19, 2004, and recorded in the Clerk's Office as Instrument No. 040026694, Declarant conveyed to Williamsburg Developers, LLC, a Virginia limited liability company (hereinafter, "Williamsburg Developers") certain real property as more particularly described in such Deed (hereinafter, the "WD Property"), comprising a portion of the property described in Exhibit B to the Declaration.

E. Declarant desires to designate certain portions of the WD Property, including such portion commonly known as the "Fountain Parcel," as Common Area pursuant to the Declaration. Such parcels are more particularly described on Exhibit A attached hereto and incorporated herein by reference.

F. Williamsburg Developers joins in this Supplemental Declaration as the fee simple owners of the WD Property.

#### AMENDMENT

**NOW, THEREFORE,** Declarant and Williamsburg Developers hereby declare that the Fountain Parcel shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Common Area Designation. The Fountain Parcel is hereby designated as Common Area for the benefit of the Members of the Association and shall be maintained by the Association pursuant to the provisions of the Declaration. No areas of the WD Property other than the Fountain Parcel shall, without amendment of the Declaration and/or this Supplemental Declaration, be designated as Common Areas or Limited Common Areas for which the Association shall be responsible for maintenance or otherwise.

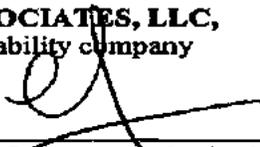
2. Further Assurances. Each party hereto shall execute and deliver such further instruments, and shall undertake and do such further acts and things as may be required to carry out the intent and purposes of this Supplemental Declaration.

3. Amendment and Duration. This Supplemental Declaration shall run with and bind the Fountain Parcel and the Owners and Occupants thereof. This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

4. Definitions. Terms defined in the Declaration shall have the same meaning where used in this Supplemental Declaration.

[SIGNATURE PAGE TO SUPPLEMENTAL DECLARATION]

**NEW TOWN ASSOCIATES, LLC,**  
a Virginia limited liability company

By:   
Lawrence Salzman, Authorized Agent

COMMONWEALTH OF VIRGINIA  
CITY OF RICHMOND, to-wit:

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of August, 2011, by Lawrence Salzman, as Authorized Agent of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

  
Notary Public

My commission expires: July 31, 2015

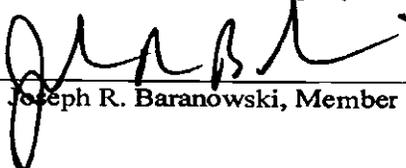
Registration number: 7502500

[SEAL]



[SIGNATURE PAGE TO SUPPLEMENTAL DECLARATION]

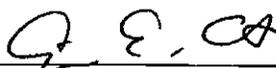
**WILLIAMSBURG DEVELOPERS, LLC,**  
a Virginia limited liability company

By:  (SEAL)  
Joseph R. Baranowski, Member

STATE OF CONNECTICUT        )  
  )ss.:  
COUNTY OF HARTFORD        )

On this 19<sup>th</sup> day of April, 2011, before me personally appeared Joseph R. Baranowski, acknowledged himself to be a Member of Williamsburg Developers, LLC, a Virginia limited liability company, and that he, as such Member, being authorized so to do, executed the foregoing instrument for the purposes therein contained and as his and its free act and deed of the limited liability company.

In witness whereof I hereunto set my hand.

  
Commissioner of the Superior Court  
Notary Public  
My Commission Expires:

6297253

## EXHIBIT "A"

### I.

All that certain lot, piece, or parcel of land situate, lying and being in the County of James City, Virginia, shown and designated as "A-1 15,186 S.F. 0.349 AC." on that certain plat entitled, "PLAT OF SUBDIVISION AND BOUNDARY LINE ADJUSTMENT BEING PARCELS 'A' AND 'B' OF BLOCK 6 AND BLOCK 7 NEW TOWN OWNED BY NEW TOWN COMMERCIAL ASSOCIATION AND WILLIAMSBURG DEVELOPERS, LLC BERKELEY DISTRICT COUNTY OF JAMES CITY VIRGINIA", dated August 5, 2010, last revised September 2, 2010, prepared by AES Consulting Engineers, and duly recorded in the Circuit Court Clerk's Office for the County of James City and the City of Williamsburg, Virginia (the "Clerk's Office") as Instrument No. 11000012936, said property being more particularly bounded and described as follows:

Commencing at a point on the easterly right-of-way of Center Street where it intersects the northerly right-of-way of Courthouse Street, thence along the right-of-way of Courthouse Street on a curve to the left with a radius of 25.00' and an arc length of 39.37' to a point, thence continuing along said right-of-way N52°17'52"E, a distance of 77.76' to the true point of beginning, said point being the southwest corner of parcel A-1 and a corner to Parcel B-3; thence departing said right-of-way and along the line of parcel B-3 N37°42'08"W, a distance of 33.80' to a point; thence N52°17'52"E, a distance of 28.59' to a point; thence N37°42'08"W, a distance of 61.20' to a point, being a common corner of parcels B-3, B-1 and A-1; thence along the line of parcel B-1 N52°17'52"E, a distance of 140.16' to a point; being a common corner of parcels B-1, B-2 and A-1, thence along the line of parcel B-2 S37°42'08"E, a distance of 62.67' to a point; thence N52°17'52"E, a distance of 28.00' to a point; thence S37°42'08"E, a distance of 32.33' to a point on the right-of-way of Courthouse Street; thence along said right-of-way S52°17'52"W, a distance of 196.75' to a point being the point of beginning.

CONTAINING 15,186 square feet or 0.349 acres, more or less.

BEING a portion of the same property conveyed to Grantor by Deed from New Town Associates, LLC, a Virginia limited liability company, dated October 19, 2004, recorded October 21, 2004, in the Clerk's Office as Instrument No. 040026694.

### II.

And all that certain lot, piece or parcel of land described as follows: COMMENCING at the extended intersection of the eastern line of Center Street and the southern line of New Town Avenue; thence along the southern line of New Town Avenue 255.36 feet to a point on the southern line of New Town Avenue; thence departing the southern line of New Town Avenue S37°42'08" E, 124.50 feet to a point; thence N52°17'52"E, 41.15 feet to a point, being the POINT OF BEGINNIG;

Thence N52°17'52"E, 90.00 feet to a point; thence S37°42'08"E, 8.00 feet to a point; thence S52°17'52"W, 90.00 feet to a point; thence N37°42'08"W, 8.00 feet to the POINT OF BEGINNING.

CONTAINING 720 Square Feet or 0.017 Acres, and being more particularly described as "AREA ADDED TO NEW PARCEL A" on the Subdivision Plat.

BEING a portion of the same property conveyed to Grantor by Deed from New Town Associates, LLC, a Virginia limited liability company, dated October 19, 2004, recorded October 21, 2004, in the Clerk's Office as Instrument No. 040026694.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 2 Sept. 2011  
at 10:08 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

Parcel ID: 3822400008

070013169

**SUPPLEMENTAL DECLARATION**

**NEW TOWN COMMERCIAL PROPERTIES  
(AHMC, LLC Property—Block 10, Parcel B)**

THIS SUPPLEMENTAL DECLARATION is made this 15<sup>TH</sup> day of March, 2007, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company, Grantor, **AHMC, LLC**, a Virginia limited liability company, Grantor.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia

Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. By Deed dated April 6, 2006, and recorded in the Clerk's Office as Instrument No. 060008511, Declarant conveyed to AHMC, LLC, a Virginia limited liability company (hereinafter, "AHMC") certain real property as more particularly described in such Deed (hereinafter, the "Subjected Property"), comprising a portion of the property described in Exhibit B to the Declaration.

E. Declarant desires to submit the Subjected Property to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

F. AHMC joins in this Supplemental Declaration as the fee simple owners of the Subjected Property.

#### **AMENDMENT**

**NOW, THEREFORE,** Declarant and AHMC hereby declare that the Subjected Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. **Condominium Form of Ownership.** If and when all or any portion of the Lot comprising the Subjected Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments

(as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Assessments and Parking.

a. General Assessments payable by Owners of residential condominium units created within the boundaries of the Lot comprising the Subjected Property (collectively, the "Residential Units") shall be calculated at an annual rate (hereinafter, the "Residential Rate") which equals sixty percent (60%) of the annual assessment rate otherwise payable pursuant to Article IX of the Declaration by owners of non-residential Lots within the Subjected Property. The General Assessments for the Residential Units shall be determined by multiplying the Residential Rate by the Assessable Square Footage. Assessable Square Footage for the Residential Units shall be defined as the sum of:

(i) The "Gross Building Square Footage" of the building(s) constructed or to be constructed on each Lot if the entire building is occupied for residential uses, or if the entire

building is not occupied for residential uses, the "Gross Building Square Footage" of such portion of the building that is attributed to and/or primarily serves the Residential Units; and

(ii) The gross square footage of kiosks and temporary enclosures, if any, which are attributed to and/or serve the Residential Units.

b. Special Assessments payable by the Owners of the Residential Units shall be assessed at a rate which equals sixty percent (60%) of the special assessment rate or amount assessed unless such Special Assessment relates specifically to the Residential Units or any specific Residential Unit, in which case the Owner(s) of the applicable Residential Unit(s) shall pay the Special Assessment at the rate of one hundred percent (100%).

c. Each Residential Unit shall pay the service assessments, Limited Common Expense Assessments and the Transfer Fee provided for in Section 9.12 of the Declaration at full rate or cost without reduction.

Under the Declaration, one (1) parking space will be assessed per residential dwelling unit.

3. Amendment and Duration. This Supplemental Declaration shall run with and bind the Subjected Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

4. Definitions. Terms defined in the Declaration shall have the same meaning when used in this Supplemental Declaration.

IN WITNESS WHEREOF the undersigned have caused this Supplemental Declaration to be executed on their behalf by their duly authorized representatives as of the date and year first written above. AHMC, LLC represents and warrants to Declarant that it is the sole owner of the Subjected Property.

**NEW TOWN ASSOCIATES, LLC,**  
a Virginia limited liability company

By: \_\_\_\_\_

*John P. McCann*  
John P. McCann  
Title: Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of March, 2007, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

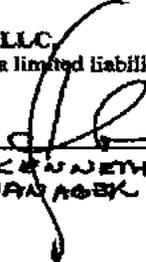
My Commission Expires  
November 30, 2010

*Melinda Williams*  
Notary Public

My commission expires: \_\_\_\_\_



AHMC, LLC  
a Virginia limited liability company

By:   
Name: KENNETH L. ALLEN  
Title: MANAGER

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of March  
2007, by Kenneth L. Allen, as Manager of AHMC, LLC, a Virginia  
limited liability company, on its behalf.

  
Notary Public

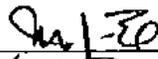
My commission expires: 11/30/2010

**JOINDER OF CHESAPEAKE BANK**

1. Chesapeake Bank is the beneficiary of that certain Credit Line Deed of Trust, dated as of April 7, 2006, from AHMC, L.L.C., a Virginia limited liability company, to Suzanne Dix Keyser as Trustee, and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia, as Instrument No. 060008512 (the "Deed of Trust").

2. Suzanne Dix Keyser, as sole trustee, at the direction of Chesapeake Bank as evidenced by its signature below, hereby subordinates the lien of the Deed of Trust to the foregoing Supplemental Declaration. It is expressly understood that except as herein subordinated, the Deed of Trust remains in full force and effect as first lien on the Mortgaged Property (as defined in the Deed of Trust).

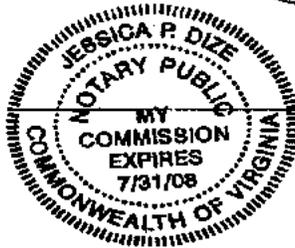
**CHESAPEAKE BANK**

By:  (SEAL)  
Title: VICE PRESIDENT

 (SEAL)  
SUZANNE DIX KEYSER, Trustee

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY WILLIAMSBURG, to-wit:

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of April, 2007, by MARK J. GAGLIUSTAN VP of Chesapeake Bank, on its behalf.



[Signature]  
Notary Public

My commission expires: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY LANCASTER, to-wit:

The foregoing instrument was acknowledged before me this 13 day of April, 2007, by Suzanne Dix Keyser, as Trustee.

[Signature]  
Notary Public  
Commissioned to Shirley A. Conway

My commission expires: 11-30-07

#6143864

8 of 8

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 11 May 07  
at 2:16 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK  
BY [Signature] Clerk

070 000159

AMENDMENT AND SUPPLEMENTAL DECLARATION  
TO  
AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS,  
EASEMENTS AND RESTRICTIONS  
FOR  
NEW TOWN COMMERCIAL PROPERTIES  
(Additional Property Amendment/Langley Federal Credit Union)

This AMENDMENT AND SUPPLEMENTAL DECLARATION TO AMENDED AND RESTATED MASTER DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS (this "Amendment") is made this 19<sup>th</sup> day of December, 2006, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company, NEW TOWN COMMERCIAL ASSOCIATION, a Virginia non-stock corporation, and LANGLEY FEDERAL CREDIT UNION, a federal credit union organized under the Federal Credit Union Act, to be indexed as "Grantor" and "Grantee" for recording purposes.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its

Tax Parcel No. 3840100055  
Prepared by: Kaufman & Canoles, P. C.  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated November 26, 2002 and recorded in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited liability company (the "Amended and Restated Declaration"), the Original Declaration was amended and restated in its entirety. The Amended and Restated Declaration, as now or hereinafter amended, supplemented and/or restated by instruments of record in the Clerk's Office is hereinafter referred to as the "Declaration."

D. The Declaration provides in Section 2.1 that it may be extended to other real estate owned by Declarant, or its Affiliate, and located within a two mile radius of the real estate described in Exhibits A and B to the Declaration.

E. By Deed dated August 25, 2005 and recorded on August 29, 2005 in the Clerk's Office as Instrument No. 050020281, Philip Richardson Company, Inc., a Virginia corporation ("Richardson"), conveyed to Langley Federal Credit Union (hereinafter "Langley") certain real property as more particularly described in such Deed (hereinafter, the "Langley Property") that is adjacent to portions, and within a two mile radius, of the property shown on Exhibits A and B of the Declaration.

F. Proffer 1(b) of Richardson's "New Town - Portion of Section 9 - Proffers" dated August 9, 2005 and recorded on August 17, 2005 in the Clerk's Office as Instrument Number 050019046 required that the Langley Property be subjected to the Declaration.

G. The Langley Property was never owned by Declarant or an Affiliate of Declarant, and, therefore, in order for the Langley Property to be subjected to the Declaration, the Declaration must be amended.

H. Article XII, Section 12.2 of the Declaration provides that it may be amended by a vote of the sum of: (A) two-thirds (2/3) of the Class A votes (including Class A votes held by Declarant), plus (B) the Class B vote (if any), cast by the Members of the New Town Commercial Association (the "Association").

I. The Members of the Association and Declarant believe it is in the best interests of the Association to (i) amend the description of the real estate that may be subjected to the Declaration and (ii) subject the Langley Property to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and this Amendment.

J. Members holding two-thirds (2/3) or more of the Class A votes of the Association and Declarant, as the Class B Member, have voted to approve this Amendment.

K. Langley Federal Credit Union, as the fee simple owner of the Langley Property, joins in this Amendment for the purpose of subjecting the Langley Property to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and this Amendment.

L. Unless otherwise defined herein, capitalized terms used herein shall have the meaning set forth in the Declaration.

#### **AMENDMENT**

NOW, THEREFORE, the Declaration is hereby amended and supplemented as follows:

1. Section 2.1 Right to Subject Additional Property to Declaration is hereby amended as follows:

A. The second sentence is hereby deleted and the following is substituted in lieu thereof:

Declarant contemplates the extension of this Declaration to the real estate described in Exhibit B hereto or portions thereof and the possible extension of this Declaration to other real estate located within a two (2) mile radius of the real estate described in Exhibits A and B (collectively, the "Additional Property").

B. The following sentence is added after the last sentence:

Any extension of this Declaration to property not owned by Declarant shall require the express consent and joinder of the owner of such property.

2. Section 2.3 Additional Restrictions is hereby amended to delete "then owned by Declarant or an Affiliate or Declarant" in the first sentence thereof, and to add the following sentence after the last sentence:

Any such Supplemental Declaration shall require the express consent and/or joinder of the owner of the property to be subjected if such property is not owned by Declarant or an Affiliate of Declarant.

3. Langley Property Hereby Subjected to Declaration and This Amendment.

Declarant and Langley hereby declare that the Langley Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as the same may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference, and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Amendment.

a. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Langley Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments

(as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

b. Parking Assessment Not Applicable to Langley Property. The Langley Property has no Attributed Parking Spaces as defined in the Declaration, and therefore the Langley Property will not be assessed for Parking Assessments for Attributed Parking Spaces.

4. Run With the Land. This Amendment shall run with and bind the Property, including, without limitation, the Langley Property, and the Owners and Occupants thereon.

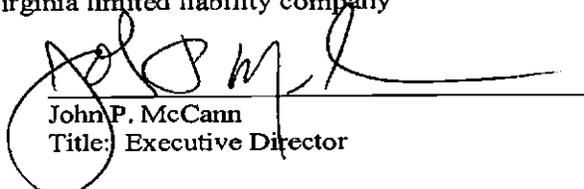
5. Amendment and Duration. This Amendment shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration. Pursuant to Section 55-515.1(F) of the Code of Virginia, 1950, as amended, this Amendment shall become effective when it is duly recorded in the Clerk's Office.

IN WITNESS WHEREOF, this Amendment is executed as of the date and year first above written. This Amendment may be executed in two or more counterparts and by facsimile,

each of which shall be an original and all of which together shall constitute one and the same instrument.

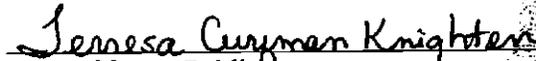
NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By:

  
John P. McCann  
Title: Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE, to wit:

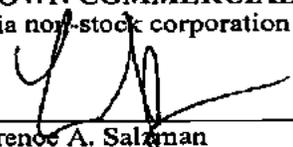
The foregoing instrument was acknowledged before me in James City County,  
Virginia, this 14<sup>th</sup> day of December, 2006, by John P. McCann, as Executive Director of  
New Town Associates, LLC, a Virginia limited liability company, on its behalf.

  
Notary Public

My commission expires: 08/31/08.

**ADDITIONAL SIGNATURES APPEAR ON THE FOLLOWING PAGES**

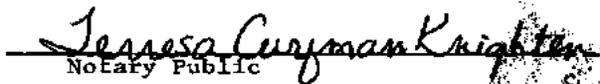
NEW TOWN COMMERCIAL ASSOCIATION,  
a Virginia non-stock corporation

By:   
Lawrence A. Salzman  
Title: President

**CERTIFICATION PURSUANT TO VIRGINIA CODE 55-515.1(F)**

COMMONWEALTH OF VIRGINIA, AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of December, 2006 by Lawrence A. Salzman, as President of New Town Commercial Association, a Virginia non-stock corporation, on behalf of the corporation, who did state and certify that the requisite percentage of Members have voted to approve such Amendment and Supplemental Declaration as evidenced by their ballots and proxy forms on file with New Town Commercial Association.

  
Notary Public

My commission expires: 08/31/08

**ADDITIONAL SIGNATURES APPEAR ON THE FOLLOWING PAGES**



LANGLEY FEDERAL CREDIT UNION,  
a federal credit union organized under the Federal  
Credit Union Act

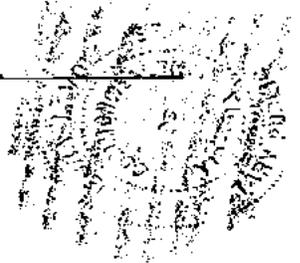


By: Jean M. Yokum  
Jean M. Yokum  
Title: President and Chief Executive Officer

COMMONWEALTH OF VIRGINIA  
AT LARGE, to wit:

The foregoing instrument was acknowledged before me in Newport News,  
Virginia, this 20<sup>th</sup> day of November, 2006, by Jean M. Yokum, as President and Chief  
Executive Officer of Langley Federal Credit Union, a federal credit union organized under the  
Federal Credit Union Act, on its behalf.

Debra D. Vollen  
Notary Public



My commission expires: 12-31-2007.

**ADDITIONAL SIGNATURE APPEARS ON THE FOLLOWING PAGE**

Pursuant to Proffer 1(b) of Phillip Richardson Company, Inc.'s "New Town - Portion of Section 9 - Proffers" dated August 9, 2005, this Amendment and Supplemental Declaration for New Town Commercial Properties has been approved by the County Attorney's Office.

Leo P. Rogers  
Leo P. Rogers, County Attorney

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in James City County, Virginia on this 19<sup>th</sup> day of December, 2006, by Leo P. Rogers, County Attorney, for James City County on its behalf.

Mary Frances Rieger  
Notary Public

My commission expires: October 31, 2009.

\\ODMA\PCDOCS\DOCS\NM9148482\8

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 4 Jan 07  
at 11:26 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

Tax Parcel No. 38-2-24-0-0001B

070012632

**SUPPLEMENTAL DECLARATION  
(TO REMOVE LIFT STATION 10-4)**

**THIS SUPPLEMENTAL DECLARATION** is made this ~~30~~<sup>30<sup>TH</sup></sup> day of April, 2007, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company, which is the successor "Declarant" to C.C. Casey Limited Company, a Virginia limited liability company, (Grantor and Grantee) and provides:

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. All of that certain lot ("Lift Station 10-4") shown as "JCSA LIFT STATION 10-4" containing 0.127 acres on that Subdivision Plat entitled "PLAT OF SUBDIVISION AND BOUNDARY LINE ADJUSTMENT SHOWING VARIOUS PARCELS BEING PORTIONS OF PARCEL 2 AND SECTION 6 NEW TOWN BEING A PORTION OF THE PROPERTY OWNED BY NEW TOWN ASSOCIATES, LLC", dated August 5, 2005, last revised December 20, 2005, prepared by G.T. Wilson, Jr., AES Consulting Engineers, recorded in the Clerk's Office as Instrument Number 060004140, is identified in the Declaration as real property submitted thereto.

E. Declarant is the current owner of Lift Station 10-4 and desires to remove and release from the covenants, restrictions, easements, charges, liens and other provisions of the Declaration, any and all portions of Lift Station 10-4 that have been submitted thereto (the "Removed Property").

**NOW, THEREFORE**, pursuant to the authority of Declarant as set forth in Article II, Section 2.2 of the Declaration, Declarant hereby amends the Declaration to remove and release the Removed Property from the covenants, restrictions, easements, charges, liens and other provisions of the Declaration.

[This area intentionally left blank. Signature appears on following page.]

[Signature page to Supplemental Declaration]

IN WITNESS WHEREOF, the undersigned has caused this Supplemental Declaration to be executed on its behalf by its duly authorized representative as of the date and year first above written.

NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By: *John P. McCann*  
John P. McCann Executive Director

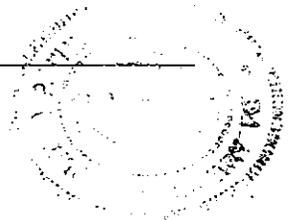
COMMONWEALTH OF VIRGINIA  
AT LARGE

The foregoing instrument was acknowledged before me in the City/County of Richmond, this 30<sup>th</sup> day of April, 2007, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

*Nolanda Williams*  
Notary Public

My Commission Expires  
November 30, 2010

My commission expires: \_\_\_\_\_



[AFFIX SEAL]

\\ODMA\PCDOCS\DOCS\WMB\6149313\1

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 1 May 07  
at 3:45 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK

Page 3 of 3

BY: *Betsy B. Woolridge* Clerk

MAP # (38-4)(1-50)

070005347

**SUPPLEMENTAL DECLARATION**

**NEW TOWN COMMERCIAL PROPERTIES  
(Block 3, Parcel C)**

THIS SUPPLEMENTAL DECLARATION is made this 20<sup>th</sup> day of February 2007  
2007, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company, Grantor.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, recorded on December 27, 2002 in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited

Parcel ID No.: 3930400001  
Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. Declarant desires to submit the property listed on Exhibit A attached hereto and made a part hereof (the "Property") to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

#### **AMENDMENT**

**NOW, THEREFORE**, Declarant hereby declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have

the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Assessments and Parking. General Assessments payable by Owners of residential condominium units created within the boundaries of the Lot comprising the Property (collectively, the "Residential Units") shall be calculated at an annual rate (hereinafter, the "Residential Rate") which equals sixty percent (60%) of the annual assessment rate otherwise payable pursuant to Article IX of the Declaration by owners of non-residential Lots within the Property. The General Assessments for the Residential Units shall be determined by multiplying the Residential Rate by the Assessable Square Footage. Assessable Square Footage for the Residential Units shall be defined as the sum of:

- (i) The "Gross Building Square Footage" of the building(s) constructed or to be constructed on each Lot if the entire building is occupied for residential uses, or if the entire building is not occupied for residential uses, the "Gross Building Square Footage" of such portion of the building that is attributed to and/or primarily serves the Residential Units; and
- (ii) The gross square footage of kiosks and temporary enclosures, if any, which are attributed to and/or serve the Residential Units.

Special Assessments payable by the Owners of the Residential Units shall be assessed at a rate which equals sixty percent (60%) of the special assessment rate or amount assessed unless such Special Assessment relates specifically to the Residential Units or any specific Residential Unit, in which case the Owner(s) of the applicable Residential Unit(s) shall pay the Special Assessment at the rate of one hundred percent (100%).

Each Residential Unit shall pay the service assessments, Limited Common Expense Assessments and the Transfer Fee provided for in Section 9.12 of the Declaration at full rate or cost without reduction.

Under the Declaration, one (1) parking space will be assessed per residential dwelling unit.

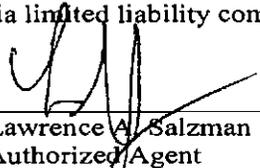
3. Use of the Name "New Town" or "New Town Commercial Association." No person or entity shall use the words "New Town" or "New Town Commercial Association" or any derivative thereof in any printed or promotional material other than in connection with advertising the location of the Owner or its business.

4. Amendment and Duration. This Supplemental Declaration shall run with and bind the Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

[Signature appears on following page.]

IN WITNESS WHEREOF, the undersigned have caused this Supplemental Declaration to be executed on their behalf by their duly authorized representatives as of the date and year first written above.

NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By:   
Lawrence A. Salzman  
Authorized Agent

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY of RICHMOND, to-wit:

The foregoing instrument was acknowledged before me in the Commonwealth of Virginia, this 20 day of February, 2007, by Lawrence A. Salzman, Authorized Agent of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

  
Brenda Bivens  
Notary Public

My commission expires: 4/30/2009



EXHIBIT A

ALL that certain lot, piece or parcel of land, together with improvements thereon and appurtenances thereto belonging, lying and being on the west line of Ironbound Road, James City County, Virginia, shown as Block 3 Parcel C on the Subdivision Plat prepared by G. T. Wilson, Jr. dated February 14, 2005, entitled "Plat of Subdivision Showing Block 6 and 7, Parcels A, C, D and E; and Block 3, Parcels B, C, and D Being a Portion of the Property Owned by New Town Associates, LLC, Berkeley District, County of James City, Virginia", which plat is recorded as Instrument Number 050011814 in the Clerk's Office of the Circuit Court, James City County, Virginia and to which plat reference is hereby made for a more particular description of the property herein conveyed.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 2-23-2007  
at 2:09 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B. Woolridge Clerk

050023857

**SUPPLEMENTAL DECLARATION**

**NEW TOWN COMMERCIAL PROPERTIES  
(GCR Property—Block 5, Parcel D)**

THIS SUPPLEMENTAL DECLARATION is made this 29<sup>th</sup> day of September, 2005, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company, Grantor, GCR COMMERCIAL, LLC, a Virginia limited liability company, Grantor, and SOMAR EAST, L.L.C., a Virginia limited liability company, Grantor.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

Portion of Parcel ID No.: 38-4 01-0-0050  
Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. By Deed dated May 6, 2004, and recorded in the Clerk's Office as Instrument No. 040012610, Declarant conveyed to GCR COMMERCIAL, LLC, a Virginia limited liability company (hereinafter, "GCR") certain real property as more particularly described in such Deed (hereinafter, the "Subjected Property"), comprising a portion of the property described in Exhibit B to the Declaration.

E. By Deed dated December 27, 2004, and recorded in the Clerk's Office as Instrument No. 040032224, GCR conveyed to SOMAR EAST, L.L.C., a Virginia limited liability company (hereinafter, "SOMAR EAST") a forty percent (40%) undivided interest as tenants in common with GCR in the Subjected Property.

F. Declarant desires to submit the Subjected Property to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

G. GCR and SOMAR EAST join in this Supplemental Declaration as the fee simple owners of the Subjected Property.

#### AMENDMENT

NOW, THEREFORE, Declarant and GCR and SOMAR EAST hereby declare that the Subjected Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be

amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Subjected Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Assessments and Parking. General Assessments payable by Owners of residential condominium units created within the boundaries of the Lot comprising the Subjected Property

(collectively, the "Residential Units") shall be calculated at an annual rate (hereinafter, the "Residential Rate") which equals sixty percent (60%) of the annual assessment rate otherwise payable pursuant to Article IX of the Declaration by owners of non-residential Lots within the Subjected Property. The General Assessments for the Residential Units shall be determined by multiplying the Residential Rate by the Assessable Square Footage. Assessable Square Footage for the Residential Units shall be defined as the sum of:

(i) The "Gross Building Square Footage" of the building(s) constructed or to be constructed on each Lot if the entire building is occupied for residential uses, or if the entire building is not occupied for residential uses, the "Gross Building Square Footage" of such portion of the building that is attributed to and/or primarily serves the Residential Units; and

(ii) The gross square footage of kiosks and temporary enclosures, if any, which are attributed to and/or serve the Residential Units.

Special Assessments payable by the Owners of the Residential Units shall be assessed at a rate which equals sixty percent (60%) of the special assessment rate or amount assessed unless such Special Assessment relates specifically to the Residential Units or any specific Residential Unit, in which case the Owner(s) of the applicable Residential Unit(s) shall pay the Special Assessment at the rate of one hundred percent (100%).

Each Residential Unit shall pay the service assessments, Limited Common Expense Assessments and the Transfer Fee provided for in Section 9.12 of the Declaration at full rate or cost without reduction.

Under the Declaration, one (1) parking space will be assessed per residential dwelling unit.

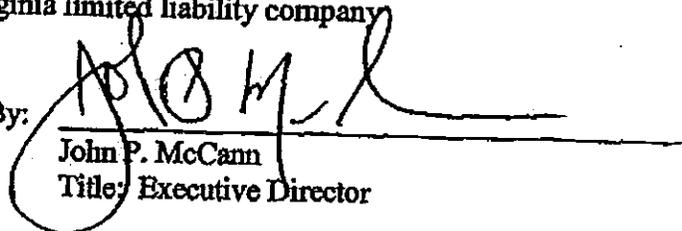
3. Amendment and Duration. This Supplemental Declaration shall run with and bind

the Subjected Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

IN WITNESS WHEREOF the undersigned have caused this Supplemental Declaration to be executed on their behalf by their duly authorized representatives as of the date and year first written above. GCR Commercial, LLC and SOMAR EAST, L.L.C. each represent and warrant to Declarant that they are the sole owners of the Subjected Property.

NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By:

  
John P. McCann  
Title: Executive Director

COUNTY OF HENRICO  
COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

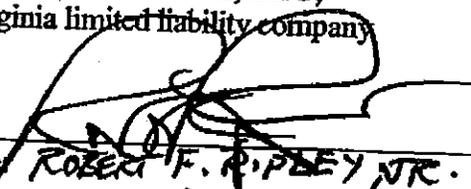
The foregoing instrument was acknowledged before me in the State  
of Virginia, this 26<sup>th</sup> day of September, 2005, by John P.  
McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability  
company, on its behalf.

  
Notary Public

My commission expires: December 31, 2008



GCR COMMERCIAL, LLC,  
a Virginia limited liability company

By:   
Name: ROBERT F. RIPLEY, JR.  
Title: MANAGER

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in James City  
County, Virginia, this 30<sup>th</sup> day of September, 2005, by  
Robert F. Ripley, Jr., as Manager of GCR Commercial, LLC, a Virginia  
limited liability company, on its behalf.

Nancy H. Whitley  
Notary Public

My commission expires: 2-28-07



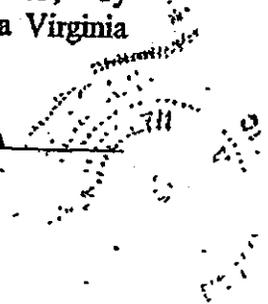
SOMAR EAST, L.L.C.,  
a Virginia limited liability company

By: [Signature]  
Name: GREGORY D. RAMOS  
Title: MANAGING MEMBER

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in James City  
County Virginia, this 29<sup>th</sup> day of September, 2005, by  
Gregory D. Ramos, as Managing Member of SOMAR EAST, L.L.C., a Virginia  
limited liability company, on its behalf.

Terrisa Curryman Knighten  
Notary Public

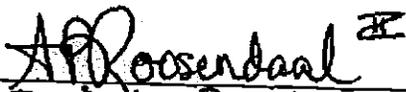


My commission expires: 08/31/08

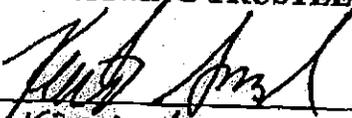
**JOINDER OF BRANCH BANKING AND TRUST COMPANY OF VIRGINIA**

1. Branch Banking and Trust Company of Virginia, a state banking corporation ("BB&T"), is the beneficiary of that certain Credit Line Deed of Trust, dated as of December 9, 2004, from GCR Commercial LLC, a Virginia limited liability company, to BB&T-VA Collateral Service Corporation as Trustee, and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia, on December 15, 2004, as Instrument No. 040031378 (the "GCR Deed of Trust").
2. BB&T-VA Collateral Service Corporation, as sole-acting trustee, at the direction of BB&T as evidenced by its signature below, hereby subordinates the lien of the GCR Deed of Trust to the foregoing Supplemental Declaration. It is expressly understood that except as herein subordinated, the GCR Deed of Trust remains in full force and effect as first lien on the Mortgaged Property (as defined in the GCR Deed of Trust).

**BRANCH BANKING AND TRUST COMPANY  
OF VIRGINIA**

By:  (SEAL)  
Title: Senior Vice President

**SOLE ACTING TRUSTEE**

 (SEAL)  
KEITH ARNOLD, Sole-Acting Trustee

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in Newport News, Virginia,  
this 3<sup>rd</sup> day of October, 2005, by A. P. Rosecrance, II,  
Senior Vice President of Branch Banking and Trust Company of Virginia, on its behalf.

[Signature]  
Notary Public

My commission expires: 12-31-07

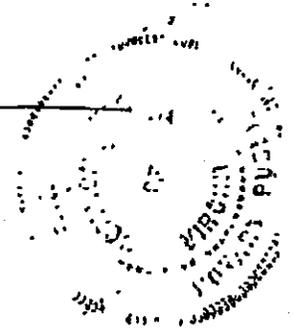


COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in Newport News, Virginia,  
this 3<sup>rd</sup> day of October, 2005, by Keith Arnold, as Sole-Acting  
Trustee.

[Signature]  
Notary Public

My commission expires: 12-31-07



6079359V7

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 4 Oct 05  
at 3:35 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.  
STATE TAX LOCAL TAX ADDITIONAL TAX

9 of 9

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK

BY: [Signature] Clerk

06D027338

**SUPPLEMENTAL DECLARATION  
NEW TOWN COMMERCIAL PROPERTIES  
(Block 17, Parcel B)**

THIS SUPPLEMENTAL DECLARATION is made this 31<sup>ST</sup> day of OCTOBER  
2006, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company, Grantor.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia

Parcel ID No.: 39 10100157  
Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

Record and Return to:  
Karen Kirspel  
Fidelity National Title  
1800 Parkway Place, Suite 700  
Marietta, GA 30067 06ATU274

limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. Declarant desires to submit the property listed on Exhibit A attached hereto and made a part hereof (the "Property"), to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

#### **AMENDMENT**

**NOW, THEREFORE,** Declarant hereby declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless

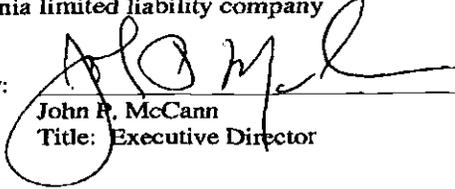
and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Residential Declaration Not Applicable. The Property is expressly subjected to the Declaration and not to the covenants, restrictions, easements, charges, liens and other provisions of the Amended and Restated Master Declaration of Protective Covenants and Restrictions for New Town (Residential), dated June 27, 2005 and recorded in the Clerk's Office as Instrument Number 050014430, as amended and supplemented by instruments of record (the "Residential Declaration"). Declarant agrees not to exercise any right(s) Declarant may have under the Residential Declaration to subject the Property to the Residential Declaration without the prior written consent of the Owner of the Property, which written consent may be given or withheld in the Owner's sole discretion.

3. Amendment and Duration. This Supplemental Declaration shall run with the Property and bind the Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units) as well as their respective heirs, personal representatives, successors and assigns; including all subsequent Owners of the Property. This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

*[Remainder of page intentionally left blank. Signatures appear on following pages.]*

NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By:   
John P. McCann  
Title: Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in the City/County of  
HENRICO, Commonwealth of Virginia on this 31 day of OCTOBER, 2006, by  
John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability  
company, on its behalf.

  
\_\_\_\_\_  
Notary Public

My commission expires: 2/28/09

EXHIBIT A

SCHEDULE A

ALL that certain lot, piece or parcel of land, together with improvements thereon and appurtenances thereto belonging, lying and being on the northwest line of New Town Avenue, James City County, Virginia, shown as Block 17 Parcel B on the Subdivision Plat prepared by G. T. Wilson, Jr., dated June 1, 2006, last revised September 11, 2006 entitled "Plat of Subdivision, Block 17, Parcel "A" and Parcel "B" and the Remainder of Block 14 and Block 18, Being a Portion of Sections 3 and 6, New Town owned by New Town Associates, LLC", which plat is recorded as Instrument No. 060026871 in the Clerk's Office, Circuit Court, James City County, Virginia and to which plat reference is hereby made for a more particular description of the property herein conveyed.

BEING part of the same property conveyed to New Town Associates, LLC, a Virginia limited liability company, by deed from C. C. Casey Limited Company, a Virginia limited liability company, and The College of William and Mary Real Estate Foundation, Inc., a Virginia nonstock corporation, dated June 23, 2000, recorded June 28, 2000, in the Clerk's Office, Circuit Court, James City County, Virginia, as Instrument No. 000012573, page 333.

#9150508-v2

Page 5 of 5

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 8 NOV 06  
at 11:34 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B. Woolridge Clerk

060025189

VENTURE EAST

**SUPPLEMENTAL DECLARATION**

**NEW TOWN COMMERCIAL PROPERTIES  
(Block 15, Parcel D)**

THIS SUPPLEMENTAL DECLARATION is made this 3<sup>RD</sup> day of October, 2006, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company, Grantor. + Grantee.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia

Parcel ID No. Part of Tax Map (38-4) (1-50)  
Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. Declarant desires to submit the property listed on Exhibit A attached hereto and made a part hereof (the "Property"), to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

#### AMENDMENT

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless

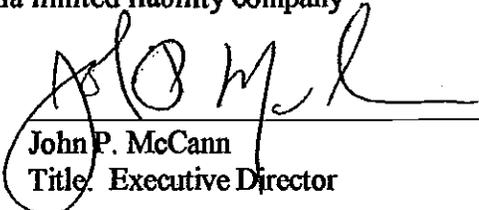
and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Amendment and Duration. This Supplemental Declaration shall run with and bind the Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

*[Remainder of page intentionally left blank. Signatures appear on following pages.]*

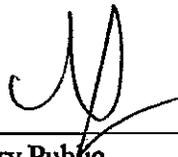
NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By:

  
\_\_\_\_\_  
John P. McCann  
Title: Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in the City/County of Richmond, Commonwealth of Virginia on this 3 day of October, 2006, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

  
\_\_\_\_\_  
Notary Public

My commission expires: 2/28/09

**EXHIBIT A**

All that certain lot, piece or parcel of land, together with improvements thereon and appurtenances thereto belonging, lying and being on the east line of Discovery Park Boulevard, James City County, Virginia, shown as Block 15 Parcel D on the Subdivision Plat prepared by G. T. Wilson, Jr. dated March 30, 2006, revised June 7, 2006, entitled "Plat of Subdivision, Block 15 Parcels A, C and D, Being a Portion of Section 6, New Town owned by New Town Associates, LLC," which plat is recorded as Instrument No. 060024786 in the Clerk's Office, Circuit Court, James City County, Virginia and to which plat reference is hereby made for a more particular description of the property herein conveyed.

#9152595-v1

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 10-6-2006  
at 2:33 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.  
STATE TAX                      LOCAL TAX                      ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B Woolridge Clerk

PROPERTY	ALTERNATE NAME	SECTION	BLOCK	PARCEL	RECORDING DOCUMENT NUMBER
1st Advantage Federal Credit Union		2 & 4			Covered by Declaration
4324 New Town Avenue	NTT, LLC				050016248
4804 Courthouse St COCOA	Whitcar (DCI)		2	E	050012777
4808 Courthouse Street	AHLM, LLC	2 & 4			Covered by Declaration
5121 Center Street	Signature Ventures, LLC		5	E	040024038
5400 Discovery Park Blvd.		3 & 6			080009867
BayPort Credit Union	NNSB Credit Union	2 & 4			Covered by Declaration
Bennington on the Park	Diversified Commercial Inv.		8	E	050012778
Casey Office/Suntrust		2 & 4			Covered by Declaration
CMM Properties	Ironbound Professional Center	1			Covered by Declaration
Corner Pocket	River City Associates, LLC	2 & 4			Covered by Declaration
Discovery Corner	5360 Discovery	3 & 6	15	B	070013170; 080009867
Discovery Courtyard/ DMC	DMC Enterprise, LLC (Lambert)	2 & 4			Covered by Declaration
Discovery I/ CWMF	5300 Discovery	3 & 6	14	C	070004371; 080009867
Discovery II/W&M Foundation	5308 Discovery	3 & 6	14	D	070004371; 080009867
Foundation Square			10	D	070015087
Goddard School		2 & 4			Covered by Declaration
Green Leafe	AHMC, LLC		10	B	070013169
HSB Real Estate Holdings, LLC	Scott Thomas	3 & 6	15	C	060024983; 080009867
Ironbound Gym	Tri-Iron, LLC	2 & 4			Covered by Declaration
Langley Federal Credit Union					070000159
Legacy Hall/ General Services	James City County	2 & 4			Covered by Declaration
Marque Homes	FM&R Properties		3	C	070005347
New Town Center Street	GCR Commercial				050023857
New Town Dental Arts	LaBocca	2 & 4			Covered by Declaration
Old Point National Bank		1			Covered by Declaration
Oxford New Town	The Pointe	3 & 6	17	B	060027338; 080009867
Patriot Park/5388 Discovery	Venture East	3 & 6	15	D	060025189; 080009867
Prudential Towne Realty		1			Covered by Declaration
Robertson Liebler		3 & 6			080009867
Schumann Holdings, LLC		2 & 4			Covered by Declaration
Sentara	AH Williamsburg Medical	3 & 6	14	E	070008831; 080009867
Take 5	Design Center	3 & 6	14	B	070013168; 080009867
The Boulevard Building		2 & 4			Covered by Declaration
Three Persons-JNR, LC		3 & 6			080009867
Towne Bank			12	A	040009108

PROPERTY	ALTERNATE NAME	SECTION	BLOCK	PARCEL	RECORDING DOCUMENT NUMBER
TPMG		3 & 6			080009867
WE Wood & Associates	Breck and Taylor, LLC	2 & 4			Covered by Declaration
WEG Building Association	H&M		8	D	050014179
Williamsburg Developers					110018618
Williamsburg ENT Ventures, LLC		3 & 6			080009867

**Other Supplementals:**

Settler's Market	070014343
Fountain Parcel	110018614
Remove Portion of BMP #1	040009107
Remove Lift Station 10-4	070012632

060024983

**SUPPLEMENTAL DECLARATION**

**NEW TOWN COMMERCIAL PROPERTIES**  
(Block 15, Parcel C)

TAX MAP # 39-1 1-57

THIS SUPPLEMENTAL DECLARATION is made this 3<sup>RD</sup> day of October, 2006, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company, Grantor.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia

Parcel ID No. Part of Tax Map (38-4) (1-50)

Prepared by:

Kaufman & Canoles

4801 Courthouse Street, Suite 300

Williamsburg, VA 23188

limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. Declarant desires to submit the property listed on Exhibit A attached hereto and made a part hereof (the "Property"), to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

**AMENDMENT**

**NOW, THEREFORE,** Declarant hereby declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless

and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Amendment and Duration. This Supplemental Declaration shall run with and bind the Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

*[Remainder of page intentionally left blank. Signatures appear on following pages.]*

**EXHIBIT A**

All that certain lot, piece or parcel of land, together with improvements thereon and appurtenances thereto belonging, lying and being on the east line of Discovery Park Boulevard, James City County, Virginia, shown as Block 15 Parcel C on the Subdivision Plat prepared by G. T. Wilson, Jr. dated March 30, 2006, revised June 7, 2006, entitled "Plat of Subdivision, Block 15 Parcels A, C and D, Being a Portion of Section 6, New Town owned by New Town Associates, LLC," which plat is recorded as Instrument No. 060024786 in the Clerk's Office, Circuit Court, James City County, Virginia and to which plat reference is hereby made for a more particular description of the property herein conveyed.

#9152595-v1

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 4 OCT 06  
at 12:28 ~~PM~~/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

070008831

SUPPLEMENTAL DECLARATION  
NEW TOWN COMMERCIAL PROPERTIES  
(Block 14, Parcel E)

THIS SUPPLEMENTAL DECLARATION is made this 15<sup>th</sup> day of MARCH, 2007,  
by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company, Grantor.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, recorded December 27, 2002 in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited

Parcel ID No. Part of Tax Map (39-1) (01-0-0157)  
Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. Declarant desires to submit the property listed on Exhibit A attached hereto and made a part hereof (the "Property"), to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

#### AMENDMENT

**NOW, THEREFORE,** Declarant hereby declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless

and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

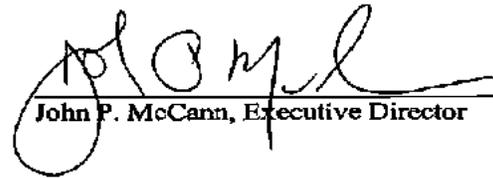
2. Use of the Name "New Town". Any owner or occupant may use the name New Town in connection with advertising the location of such owner's parcel or the business conducted thereon; provided, however, no party or owner other than New Town Associates LLC, New Town Commercial Association and New Town Residential Association shall use the name New Town for any other use or other development or project.

3. Amendment and Duration. This Supplemental Declaration shall run with and bind the Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

*[Remainder of page intentionally left blank. Signatures appear on following pages.]*

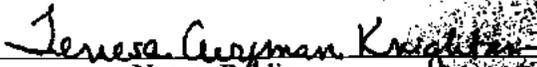
**NEW TOWN ASSOCIATES, LLC,**  
a Virginia limited liability company

By:

  
\_\_\_\_\_  
John P. McCann, Executive Director

**COMMONWEALTH OF VIRGINIA**  
**AT LARGE, to-wit:**

The foregoing instrument was acknowledged before me in the City/County of James City, Commonwealth of Virginia on this 15<sup>th</sup> day of March, 2007, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

  
\_\_\_\_\_  
Notary Public

My commission expires: 08/31/08

**EXHIBIT A**

All that certain lot, piece or parcel of land, together with improvements thereon and appurtenances thereto belonging, lying and being in James City County, Virginia, containing 3.449 acres, more or less, being Block 14 Parcel E as shown on the Subdivision Plat prepared by G.T. Wilson, Jr. dated July 31, 2006, and last revised November 29, 2006, entitled "Plat of Subdivision, Block 14 Parcels A, C, D & E, Being a Portion of Section 3 and 6, New Town owned by New Town Associates, LLC, Berkeley District, County of James City, Virginia" which plat is recorded as Instrument No. 070004370 in the Clerk's Office, Circuit Court, James City County, Virginia and to which plat reference is hereby made for a more particular description of the property herein conveyed.

804755

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 3-23-2007  
at 2:47 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.  
STATE TAX LOCAL TAX ADDITIONAL TAX  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B. Woolridge Clerk

070014343

Tax Parcel ID Numbers: 3840100002, 3840100003, 3840100051, 3840100052, a portion of 3840100056, and 3840100057.

**SUPPLEMENTAL DECLARATION**

**NEW TOWN COMMERCIAL PROPERTIES  
(Settler's Market)**

THIS SUPPLEMENTAL DECLARATION is made this 11<sup>th</sup> day of May, 2007, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company ("NTA"), Grantor, and AIG BAKER WILLIAMSBURG, L.L.C., a Delaware limited liability company ("AIG"), Grantor.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, recorded on December 27, 2002 in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited

Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

FILE TO:  
FIRST AMERICAN TITLE INS. CO.

ATTN: 1805A

liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. Declarant is the owner of certain real property (the "NTA Property") comprising a portion of the property described in Exhibit B to the Declaration, which NTA Property is more particularly described on Exhibit A attached hereto and incorporated herein by reference.

E. AIG is the owner of certain real property (the "AIG Property") comprising a portion of the property described in Exhibit B to the Declaration, which AIG Property is more particularly described on Exhibit B attached hereto and incorporated herein by reference.

F. Declarant desires to submit the NTA Property and the AIG Property (collectively, the "Property") to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration as provided herein.

G. AIG joins in this Supplemental Declaration as the fee simple owner of the AIG Property.

#### AMENDMENT

NOW, THEREFORE, Declarant in accordance with, *inter alia*, Section 2.3 of the Declaration, and AIG hereby declare that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented hereby and from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership or Subordinate Property Owners' Association.

(a) In the event that any portion of the Property is further subdivided, such subdivided portions shall be submitted to a declaration of covenants, easements and restrictions allocating the rights and responsibilities of the Owner(s) of the subdivided Property hereunder, which declaration shall be subject to the review and approval of the Declarant and/or Association as more particularly described in subparagraph (b) below.

(b) If and when all or any portion of the Lot comprising the Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership) or a subordinate declaration of covenants, easements and restrictions pursuant to the Virginia Property Owners' Association Act, the individual units created by such condominium or separate parcels subject to such declaration shall constitute separate Lots under the Declaration, provided that the owners' association(s) shall be the agent(s) of the respective unit owners or members for the purpose of payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence or elsewhere herein, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners or members, and condominium unit owners and members shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership or subordinate declaration of covenants, easements and restrictions shall be established or imposed on any Lot unless and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium or Declaration of Covenants, Easements, and Restrictions, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and

approval, which review and approval shall be limited to such documents providing (i) that Lot or unit owners are members of the Association, (ii) that the owners' association shall be the agent for Lot or unit owners in exercising any review and/or approval rights herein provided, (iii) an acknowledgment of the obligation to pay Assessments as provided herein, (iv) an acknowledgment of the Association's enforcement rights over the provisions of the Declaration applicable to the Property, (v) an acknowledgement of the Association's lien rights and the superiority of the same to that of such owners' association, (vi) an acknowledgement of the architectural controls provided in the Declaration, (vii) that such documents cannot be later amended to affect the rights and obligations of the Association without the Association's approval, and (viii) that to the extent there is any conflict between such documents and the Association's documents the Association's documents shall govern. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Common Area Designations, Maintenance Responsibility, and Shared Services.

(a) The portions of the Property designated as "BMP A04", "BMP A06", and "WETLAND / BUFFER" on Exhibit C attached hereto and incorporated herein by reference are hereby designated Limited Common Areas for the benefit of the Property and the property shown as "SECTION 8" on Exhibit C, and shall be maintained by the Association. The Association's maintenance of the areas shown as "BMP A04" and "BMP A06" on Exhibit C shall not commence until such improvements are complete and easements granted and/or conveyances made necessary to accomplish such maintenance. The Limited Common Areas described above may but are not required to be conveyed to the Association, provided such easements are granted to the Association as necessary to perform such maintenance

(b) No areas of the Property other than those described herein shall, without amendment of this Supplemental Declaration, be designated Common Areas or Limited Common Areas for which the Association shall be responsible for maintenance or otherwise.

(c) The Property shall not be subject to any Assessments and Fees under the Declaration except for:

(i) Reasonable Limited Common Area Assessments for the Limited Common Areas described herein in the following proportions:

BMP A04

AIG Property and "AIG ACQUISITION AREA" described on Exhibit A	-	71.32%
"DRC ACQUISITION AREA" described on Exhibit A	-	7.79%
"SECTION 8" shown on Exhibit C	-	20.89%

BMP A06

AIG Property and "AIG ACQUISITION AREA" described on Exhibit A	-	74.02%
"DRC ACQUISITION AREA" described on Exhibit A	-	25.98%

WETLAND / BUFFER

AIG Property and "AIG ACQUISITION AREA" described on Exhibit A	-	100%
--	---	------

(ii) General Assessments solely to the extent attributable to security services, if requested by AIG or NTA for their respective portions of the Property, provided to the Property by the Association, and special promotional events put on by the Association for its residents, businesses, and/or customers which events are located in whole or in part on the Property and/or directly benefit the residents, businesses, and customers of the Property. The Owners of the Property shall have the right, annually, to review and approve their allocable portion of General

Assessment relating to special promotional events, such approval not to be unreasonably withheld, conditioned, or delayed.

3. Waiver. The Property shall not be subject to the following provisions of the Declaration:

(a) Section 3.3, unless approved by the Owners of the Property, such approval not be unreasonably withheld, conditioned, or delayed.

(b) Article V.

(c) Article VI, except for Section 6.3, Section 6.5, and Section 6.6.

(d) Article X, except for Section 10.3 and Section 10.5 which shall apply to the Property.

(e) Section 11.1, except in the event of emergencies.

4. Voting. In consideration of the waiver of certain Assessments, Fees, and other provisions of the Declaration as described above and notwithstanding any other provision of the Declaration, this Supplemental Declaration, the Articles, Bylaws, and Rules and Regulations of the Association, the Owner(s) of the Property shall be members of the Association but shall have no voting rights; provided, however, that the Owners of the Property shall have the right to review and approve any decision or act of the Association with regard to the Limited Common Areas described herein which materially and adversely affects the benefit(s) derived by such Owners from such Limited Common Areas.

5. Uses.

(a) The permitted uses on the Property shall be the Permitted Uses set forth in Exhibit C to the Declaration.

(b) If any portion of the Property be subdivided and/or subjected to a condominium regime for the purpose of creating an entirely residential development, community or neighborhood, then the owner(s) of such portion of the Property shall work with the Declarant during the Period of Declarant Control and, thereafter, with the Association to remove such portion of the Property from the Declaration provided that such portion of the Property is simultaneously submitted to that certain Amended and Restated Master Declaration of Protective Covenants and Restrictions for New Town (Residential), dated June 27, 2005, and recorded in the Clerk's Office as Instrument Number 050014430, upon similar terms and conditions.

6. Amendment and Duration. This Supplemental Declaration shall run with and bind the Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration with the approval of the Owners of the Property.

7. Severability. If any provision of this Supplemental Declaration is held to be invalid or unenforceable by any court having jurisdiction, the invalidity of such provision(s) shall not affect the validity of the remaining provisions of this Supplemental Declaration, which shall continue unimpaired, in full force and effect and shall be construed to the fullest extent practicable as if such invalid or unenforceable provision(s) had not been included in this Supplemental Declaration.

8. Further Assurances. Each party hereto shall execute and deliver such further instruments, and shall undertake and do such further acts and things as may be required to carry out the intent and purposes of this Supplemental Declaration.

9. Estoppel Certificates. The Declarant and/or the Association shall at any time and from time to time upon not less than fifteen (15) business days' prior written request by an Owner of the Property execute, acknowledge and deliver to the requesting party a statement in writing certifying that (a) this Supplemental Declaration is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified and stating the modifications), (b) the dates to which any amounts due hereunder have been paid or are due and payable, if any, and (c) all of the defaults of the requesting party hereunder, if any, (and if there are no defaults a statement to that effect) and any other information reasonably requested, it being intended that any such statement delivered pursuant to this provision may be relied upon by any prospective purchaser of a portion of the Property or any mortgagee or assignee of any mortgage upon the fee or leasehold of any portion of the Property.

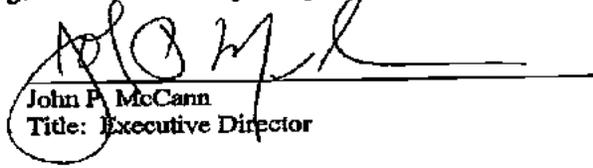
10. Covenants Run with the Land. The provisions of this Supplemental Declaration shall constitute covenants running with, and shall be appurtenant to the Property and be binding upon and inure to the benefit of the parties which have an interest in the Property and their respective successors and assigns in title.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

[SIGNATURE PAGE TO SUPPLEMENTAL DECLARATION]

IN WITNESS WHEREOF, the parties have executed this Supplemental Declaration under seal.

NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By: 

John P. McCann  
Title: Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 11 day of May, 2007, by JOHN P. McCANN, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

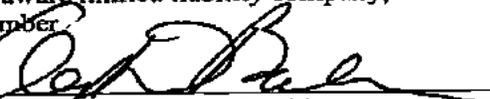
  
Notary Public

My commission expires: 4/30/2009

[SIGNATURE PAGE TO SUPPLEMENTAL DECLARATION]

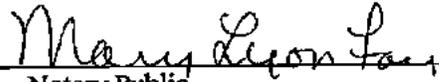
**AIG BAKER WILLIAMSBURG, L.L.C.**, a Delaware limited liability company

By: **AIG Baker Shopping Center Properties, L.L.C.**, a Delaware limited liability company, Its Sole Member

By:   
Alex D. Baker, President

STATE OF ALABAMA  
CITY/COUNTY OF SHELBY, to-wit:

The foregoing instrument was acknowledged before me this 7 day of May, 2007, by Alex D. Baker, President of AIG Baker Shopping Center Properties, L.L.C., sole member of AIG Baker Williamsburg, L.L.C., a Delaware limited liability company, on its behalf.

  
Notary Public

My commission expires: 3-29-08

\\ODMA\PCDOCS\DOCSNN\9163526

[SIGNATURE PAGE TO SUPPLEMENTAL DECLARATION]

New Town Commercial Association, Inc., a Virginia non-stock corporation, joins herein exclusively for the purpose of acknowledging and consenting to this Supplemental Declaration to include but not be limited to the amendments to and the waivers from the provisions of the Declaration provided herein as to the Property.

NEW TOWN COMMERCIAL ASSOCIATION, INC.  
a Virginia non-stock corporation

By: [Signature]  
Name: JOHN P. MCCANN  
Title: VICE PRESIDENT

STATE OF VIRGINIA  
CITY/COUNTY OF RICHMOND, to-wit:

The foregoing instrument was acknowledged before me this 11 day of MAY, 2007, by John P. McCann, as V. President of New Town Commercial Association, Inc., a Virginia non-stock corporation, on its behalf.

Buerda Obivers  
Notary Public

My commission expires: 4/30/2007

[SIGNATURE PAGE TO SUPPLEMENTAL DECLARATION]

Settlers Market Developers, LLC, a Virginia limited liability company, joins herein exclusively for the purpose of acknowledging its consent to this Supplemental Declaration and the implications of the same for the portion of the Property to be acquired by Settlers Market Developers, LLC.

SETTLERS MARKET DEVELOPERS, LLC  
a Virginia limited liability company

By: [Signature]  
Name: Joseph R. Baranowski  
Title: Member

STATE OF CONNECTICUT  
CITY/COUNTY OF HARTFORD, to-wit:

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of May, 2007, by Joseph R. Baranowski as a Member of Settlers Market Developers, LLC, a Virginia limited liability company, on its behalf.

[Signature]  
~~Notary Public~~ G. E. Carter  
Commissioner of The Superior Court

~~My commission expires: \_\_\_\_\_~~

\\ODMA\PCDOCS\DOCS\NN9163526

EXHIBIT A

AIG ACQUISITION AREA

All those certain pieces, parcels or tracts of land, situate, lying and being in the Berkeley District of the County of James City, Virginia, containing a total of 14.098 acres more or less and being more particularly described as follows:

Commencing at an iron rod found at the intersection of the easterly right-of way line of State Route #199 and the northerly right-of-way line of Monticello Avenue, State Route #321; thence in a easterly direction and along the northerly right-of-way line of Monticello Avenue, State Route #321, N46°23'51"E, 72.84' to an iron rod found; thence N61°30'51"E, 155.38' to an iron rod found; thence N46°23'51"E, 336.39 to an iron rod found; thence N01°23'51"E, 50.00' to an iron rod found; thence N46°23'51"E, 57.87' to an iron found. This being the true point of beginning (P.O.B.) and the southwestern corner of the property described hereon.

Thence from said true point of beginning and iron rod found, said point being along the northerly right-of-way line of Monticello Avenue, State Route #321, a corner to the property described hereon and other lands of New Town Associates, L.L.C.; thence leaving said corner and right-of-way line of Monticello Avenue, State Route #321, N18°29'55"W, 278.33' to an iron pipe found; thence N14°06'23"W, 106.03' to an iron pipe found, a corner to the property described hereon, other properties of New Town Associates, L.L.C. and the property now or formerly standing in the name of AIG Baker Williamsburg, L.L.C.; thence lying along the line of the property described hereon and the property now or formerly standing in the name of AIG Baker Williamsburg, L.L.C., N14°06'23"W, 660.00' to an iron pipe found; thence S75°50'00"W, 630.30' to an iron rod found along the easterly right-of-way line of State Route #199, said iron rod found being a corner to the property described hereon and the property now or formerly standing in the name of AIG Baker Williamsburg, L.L.C.; thence leaving said corner and lying along the right-of-way line of State Route #199, N06°36'51"W, 335.06' to a point, said point being a corner to the property described hereon and other lands now or formerly standing in the name of New Town Associates, L.L.C.; thence leaving said corner and lying along a proposed property line between the property described hereon and other lands of the property now or formerly standing in the name of New Town Associates, L.L.C., N75°50'02"E, 875.08' to a point; thence S56°52'18"E, 50.99' to a point; thence S26°18'43"E, 35.06' to a point; thence S56°03'09"E, 35.80' to a point; thence S75°05'24"E, 67.86' to a point; thence N48°25'10"E, 48.28' to a point; thence N16°11'12"E, 47.39' to a point; thence N41°49'10"E, 30.79' to a point; thence N54°23'10"E, 52.86' to a point; thence N62°02'26"E, 19.14' to a point; thence S29°52'16"E, 50.90' to a point; thence S85°09'06"E, 53.28' to a point; thence N63°49'01"E, 66.48' to a point; thence S52°55'57"E, 20.95' to a point, said point being a corner to the property described hereon, other lands of the property now or formerly standing in the name of New Town Associates, L.L.C. and being along the line of the property now or formerly standing in the name of AIG Baker Williamsburg, L.L.C.; thence along the line of the property described hereon and the property now or formerly standing in the name of AIG Baker Williamsburg, L.L.C., S49°43'48"W, 265.40' to an iron rod found; thence S20°41'22"E, 453.27' to an iron pipe found;

thence S52°49'31"W, 532.46' to a point; thence S14°06'23"E, 225.46' to an iron pipe found; thence S18°29'55"E, 289.67' to point along the northerly right-of-way line of Monticello Avenue, State Route #321, a corner to the property described hereon and the property now or formerly standing in the name of AIG Baker Williamsburg, L.L.C.; thence leaving said corner and lying along the northerly right-of-way line of Monticello Avenue, State Route #321, N88°36'09"W, 40.49' to an iron rod found; thence S46°23'51"W, 2.13' to the aforesaid true point of beginning.

#### DRC ACQUISITION AREA

All that certain piece, parcel or tract of land, with the improvements shown thereon, situate, lying and being in the Berkeley District of the County of James City, Virginia, containing a total of 8.420 acres more or less and being more particularly described as follows:

Beginning at an iron rod found at the intersection of the easterly right-of-way line of State Route #199, the northerly right-of-way line of Monticello Avenue, State Route #321 and a corner to the property described hereon; thence leaving said corner of the property described hereon and lying along the easterly right-of-way line of State Route #199, N 26°41'13"W, 373.33' to an iron rod found; thence, N19°03'42"W, 336.49' to an iron rod found, a corner to the property described hereon and the property now or formerly standing in the name of WHS Holdings, L.L.C.; thence leaving said corner and right-of-way line of State Route #199 and lying along the line of the property described hereon and the property now or formerly standing in the name of WHS Holdings, L.L.C., N75°50'00"E, 659.50' to an iron pipe found, a corner to the property described hereon, the property now or formerly standing in the name of WHS Holdings, L.L.C. and the property now or formerly standing in the name of New Town Associates, L.L.C.; thence leaving said corner and lying along the easterly line of the property described hereon and the property now or formerly standing in the name of New Town Associates, L.L.C. and an existing 50' easement and access R/W, S14°06'23"W, 106.03' to an iron pipe found; thence S18°29'55"E, 278.33' to an iron rod found on the northerly right-of-way line of Monticello Avenue, State Route #321, a corner to the property described hereon and the property now or formerly standing in the name of New Town Associates, L.L.C.; thence leaving said corner and lying along the northerly right-of-way line of Monticello Avenue, State Route #321, S46°23'51"W, 57.87' to an iron rod found; thence S01°23'51"W, 50.00' to an iron rod found; thence S46°23'51"W, 336.39' to an iron rod found; thence S61°30'51"W, 155.38' to an iron rod found; thence S46°23'51"W, 72.84' to the aforesaid point of beginning.

#### PORTION OF BMP A04 LOCATED ON SECTION 8

All that certain piece, parcel or tract of land, situate, lying and being in the Berkeley District of the County of James City, Virginia, shown as that portion of "BMP A04" located on "SECTION 8" on Exhibit C attached hereto.

## EXHIBIT B

### Parcel 1

All that certain piece, parcel or tract of land, with the improvements shown thereon, situate, lying and being in the Berkeley District of the County of James City, Virginia, containing a total of 9.992 acres more or less and being more particularly described as follows:

Commencing at an iron rod found at the intersection of the easterly right-of-way line of State Route #199 and the northerly right-of-way line of Monticello Avenue, State Route #321; thence in a easterly direction and along the northerly right-of-way line of Monticello Avenue, State Route #321, N46°23'51"E, 72.84' to an iron rod found; thence N61°30'51"E, 155.38' to an iron rod found; thence N46°23'51"E, 336.39 to an iron rod found; thence N01°23'51"E, 50.00' to an iron rod found; thence N46°23'51"E, 57.87' to an iron rod found; thence N18°29'55"W, 278.33' to an iron pipe found; thence N14°06'23"W, 106.03' to an iron pipe found; said iron pipe found being the true point of beginning (P.O.B.) and the southeastern corner of the property described hereon.

Thence from said true point of beginning and iron pipe found, said point being a corner to the property described hereon and other lands of the property now or formerly standing in the name of New Town Associates, L.L.C.; thence S75°50'00"W, 659.50' to an iron rod found, a corner to the property described hereon, other lands of the property now or formerly standing in the name of New Town Associates, L.L.C. and a point along the easterly right-of-way line of State Route #199; thence lying along the easterly right-of-way line of State Route #199, N14°06'23"W, 660.00' to an iron pipe found; thence N75°50'00"E, 29.20' to an iron rod found, a corner to the property described hereon, other lands of the property now or formerly standing in the name of New Town Associates, L.L.C. and a point along the easterly right-of-way line of State Route #199; thence leaving said right-of-way line of State Route #199 and lying along the line of the property now or formerly standing in the name of New Town Associates, L.L.C., N75°50'00"E, 630.30' to an iron pipe found; thence S14°06'23"E, 660.00' to the aforesaid true point of beginning.

### Parcel 2

All that certain piece, parcel or tract of land, situate, lying and being in the Berkeley District of the County of James City, Virginia, containing a total of 25.523 acres more or less and being more particularly described as follows:

Beginning at an iron rod found on the northerly right-of-way line of Monticello Avenue Extension, said iron rod being approximately 332.50' westerly of the intersection of said Monticello Avenue, State Route #321 and New Town Avenue; thence, along the northerly right-of-way line of Monticello Avenue, State Route #321, along a curve to the left, having a radius of 867.51' and arc length of 353.61' to a point; thence, N77°26'29"W, 52.92' to a point; thence, S57°33'24"W, 100.00' to a point; thence, S12°33'17"W, 52.92' to a point; thence along a curve to the left having a radius of 867.51' and arc length of 81.40' to a point; thence, S46°23'51"W,

473.47' to a point; thence N88°36'09"W, 9.52' to a point; a corner to the property described hereon and the property now or formerly standing in the name of New Town Associates, LLC; thence leaving said right-of-way line of Monticello Avenue, State Route #321 and lying along the line of the property now or formerly standing in the name of New Town Associates, LLC, N18°29'55"W, 289.67' to an iron pipe found; thence, N14°06'23"W, 225.46' to a point; thence, N52°49'31"E, 532.46' to an iron pipe found; thence, N20°41'22"W, 453.27' to an iron rod found; thence, N49°43'48"E, 381.52' to a point; thence, N30°26'18"E, 298.45' to a point; thence, S27°00'35"E, 104.02' to an iron rod found; thence, S55°02'21"E, 149.03' to an iron rod found; thence, S53°04'43"E, 334.03' to an iron rod found; thence, S40°13'01"E, 177.63' to an iron rod found; thence, S77°50'07"E, 85.56' to a found 10" gum; thence, S17°38'25"E, 378.78' to a point; thence, S16°09'22"E, 53.42' to an iron rod found, said iron rod being along the westerly right-of-way line of New Town Avenue, a corner to the property described hereon and the property now or formerly standing in the name of New Town Associates, LLC; thence along said right-of-way line of New Town Avenue, along a curve to the left, having a radius of 1045.00' and arc length of 77.22' to an iron rod found; thence leaving said right-of-way line of New Town Avenue and being along the line of AIG Baker Williamsburg, L.L.C., N26°38'06"W, 34.91' to a point; thence along a curve to the left, having a radius of 830.51' and arc length of 170.75' to a point; thence, N82°42'08"W, 184.43 to an iron rod found; thence S07°17'52"E, 257.18' to the aforesaid point of beginning.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
 This document was admitted to record on 16 May 07  
 at 11:53 AM/PM. The taxes imposed by Virginia Code  
 Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

PLAT ATTACHED



070013168

Parcel ID No. (39-1)(15-0-0002)

**SUPPLEMENTAL DECLARATION**

**NEW TOWN COMMERCIAL PROPERTIES  
(Block 14, Parcel B)**

THIS SUPPLEMENTAL DECLARATION is made this 8<sup>th</sup> day of March, 2007, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company, Grantor and TAKE FIVE, LLC, a Virginia limited liability company ("TAKE FIVE"), Grantor.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, recorded on December 27, 2002 in the Clerk's

Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. By deed dated March 24, 2006, and recorded in the Clerk's Office as Instrument No. 060007236, Declarant conveyed to TAKE FIVE certain real property as more particularly described in such Deed (the "Property"), comprising a portion of the property described in Exhibit B to the Declaration.

E. Declarant desires to submit the Property to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

F. TAKE FIVE joins in this Supplemental Declaration as the fee simple owner of the Property.

#### AMENDMENT

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the

respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Amendment and Duration. This Supplemental Declaration shall run with and bind the Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

**NEW TOWN ASSOCIATES, LLC,**  
a Virginia limited liability company

By: \_\_\_\_\_

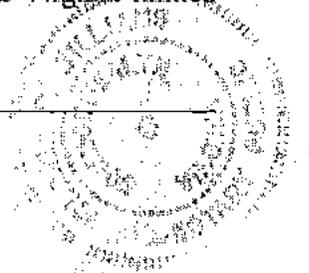
*John P. McCann*  
John P. McCann  
Title: Executive Director

**COMMONWEALTH OF VIRGINIA**  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of March, 2007, by JOHN P. McCANN, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

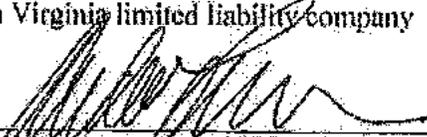
*Blanca Williams*  
\_\_\_\_\_  
Notary Public

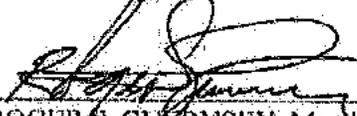
My commission expires: November 30, 2010



[Additional signatures appear on following page.]

TAKE FIVE, LLC  
a Virginia limited liability company

  
ANDREW F. CRONAN, Member

  
ROGER S. GUERNSEY, Member

  
KATHERINE A. HOWELL, Member

  
TIMOTHY A. MILLS, Member

  
THOMAS G. TINGLE, Member

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 28 day of March,  
2007, by ANDREW F. CRONAN as Member of TAKE FIVE, LLC, a Virginia limited liability  
company.

  
Notary Public

My commission expires: Nov. 30, 2008



COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 28 day of March, 2007, by ROGER S. GUERNSEY as Member of TAKE FIVE, LLC, a Virginia limited liability company.

Sharon J. Oye  
Notary Public



My commission expires: Nov. 30, 2008

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 28 day of March, 2007, by KATHERINE A. HOWELL as Member of TAKE FIVE, LLC, a Virginia limited liability company.

Sharon J. Oye  
Notary Public



My commission expires: Nov. 30, 2008

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 28 day of March, 2007, by TIMOTHY A. MILLS as Member of TAKE FIVE, LLC, a Virginia limited liability company.

Sharon J. Oye  
Notary Public

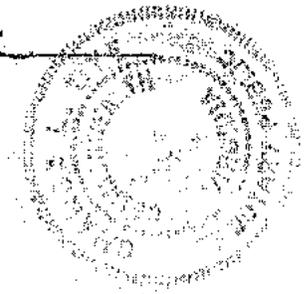


My commission expires: Nov. 30, 2008

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me this 28 day of March, 2007, by THOMAS G. TINGLE as Member of TAKE FIVE, LLC, a Virginia limited liability company.

Sharon L. Oye  
Notary Public



My commission expires: Nov. 30, 2008

61407035

**JOINDER OF CHESAPEAKE BANK**

1. Chesapeake Bank is the beneficiary of that certain Credit Line Deed of Trust, dated as of March 28, 2006, from Take Five, L.L.C., a Virginia limited liability company, to Suzanne Dix Keyser and John K. O'Shaughnessy, as Trustees, and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia, as Instrument No. 060007237 (the "Deed of Trust").

2. Suzanne Dix Keyser and John K. O'Shaughnessy, as trustees, at the direction of Chesapeake Bank as evidenced by its signature below, hereby subordinates the lien of the Deed of Trust to the foregoing Supplemental Declaration. It is expressly understood that except as herein subordinated, the Deed of Trust remains in full force and effect as first lien on the Mortgaged Property (as defined in the Deed of Trust).

**CHESAPEAKE BANK**

By:  (SEAL)  
Title: Vice President

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY WILLIAMSBURG, (to-wit:

The foregoing instrument was acknowledged before me this 3RD day of May, 2007, by MARK J. EAGLESTON as VICE PRESIDENT of Chesapeake Bank, on its behalf.

  
Notary Public

My commission expires:



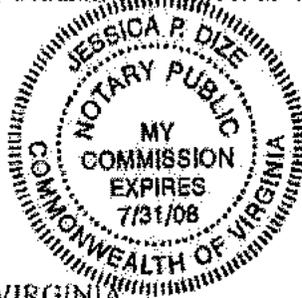
Suzanne Dix Keyser (SEAL)  
SUZANNE DIX KEYSER, Trustee

John K. O'Shaughnessy (SEAL)  
JOHN K. O'SHAUGHNESSY, Trustee

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY LANCASTER, to-wit:

The foregoing instrument was acknowledged before me this 1st day of May, 2007, by Suzanne Dix Keyser as Trustee.

My commission expires:



[Signature]  
Notary Public

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY LANCASTER, to-wit:

The foregoing instrument was acknowledged before me this 1st day of May, 2007, by John K. O'Shaughnessy as Trustee.

My commission expires:



[Signature]  
Notary Public

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 7 May 07  
at 2:16 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.  
STATE TAX LOCAL TAX ADDITIONAL TAX

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

040 009108

**SUPPLEMENTAL DECLARATION**  
**NEW TOWN COMMERCIAL PROPERTIES**  
**(Towne Bank Property)**

THIS SUPPLEMENTAL DECLARATION is made this 18<sup>th</sup> day of March, 2004, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company, Grantor; and **TOWNE BANK**, a Virginia banking corporation, as successor by merger to **HARBOR BANK**, a Virginia banking corporation, Grantor.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the

Tax Parcel No. 38-4-24-0-0001  
Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. By Deed dated January 15, 2004, and recorded in the Clerk's Office as Instrument No. 040001967, Declarant conveyed to Harbor Bank, a Virginia banking corporation (hereinafter, "Harbor Bank") certain real property as more particularly described in such Deed (hereinafter, the "Bank Property"), comprising a portion of the property described in Exhibit B to the Declaration.

E. On March 19, 2004, Harbor Bank and Towne Bank, a Virginia banking corporation (hereinafter, "Towne Bank") were merged by certificate of merger (the "Certificate") approved by the State Corporation Commission, with Towne Bank as the surviving entity with all rights, interests and responsibilities as the successor by merger to Harbor Bank.

F. By Supplemental Declaration dated March 18, 2004, Declarant amended the Declaration to remove and release that portion of the Bank Property which comprises the Removed Property (as defined in such Supplemental Declaration) from the covenants, restrictions, easements, charges, liens and other provisions of the Declaration, and Towne Bank joined in such Supplemental Declaration for the purpose of evidencing its consent to such removal and acknowledging that the Removed Property, together with the remainder of the Bank Property, will be submitted to the covenants, restrictions, charges, liens and other provisions of the Declaration by a separate Supplemental Declaration to be recorded contemporaneously with such Supplemental Declaration.

G. Declarant desires to submit the Bank Property (inclusive of the Removed Property) to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

H. Towne Bank joins in this Supplemental Declaration as the fee simple owner of the Bank Property.

**AMENDMENT**

NOW, THEREFORE, Declarant and Towne Bank hereby declare that the Bank Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Bank Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and

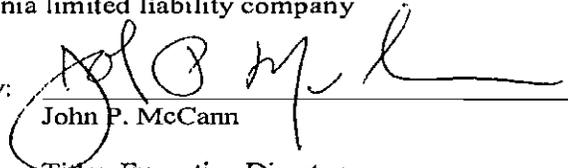
any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Amendment and Duration. This Supplemental Declaration shall run with and bind the Bank Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

*[Remainder of page intentionally left blank. Signatures appear on following page.]*

NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By:



John P. McCann

Title: Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE

The foregoing instrument was acknowledged before me in the City/County of James City, this 18<sup>th</sup> day of March, 2004, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.



Notary Public

My commission expires: 4/30/2005

[AFFIX SEAL]

TOWNE BANK,  
a Virginia banking corporation

By: [Signature]  
Lawrence E. Wilkinson, Jr.

Title: George PM  
Vice-President and Commercial Loan  
Officer

COMMONWEALTH OF VIRGINIA  
AT LARGE

The foregoing instrument was acknowledged before me in the City/County of  
JAMES CITY, this 24<sup>th</sup> day of March, 2004, by Lawrence E. Wilkinson, Jr., as  
George PM Vice-President and Commercial Loan Officer of Towne Bank, a Virginia banking corporation, on  
its behalf.

[Signature]  
Notary Public

My commission expires: 8-31-2007



#90107053 v2 - New Town Commercial Supplemental Declaration

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 30 March 04  
at 3:56 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B Woolridge Clerk

**SUPPLEMENTAL DECLARATION  
NEW TOWN COMMERCIAL PROPERTIES  
(Block 8, Parcel D)**

THIS SUPPLEMENTAL DECLARATION is made this 24<sup>th</sup> day of June, 2005, by NEW TOWN ASSOCIATES, LLC, a Virginia limited liability company, Grantor.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia

Parcel ID No.: 3822400003  
Prepared by:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. Declarant desires to submit the property listed on Exhibit A attached hereto and made a part hereof (the "Property"), to the covenants, restrictions, charges, liens and other provisions set forth in the Declaration and in this Supplemental Declaration.

#### AMENDMENT

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and other provisions set forth in the Declaration (as may be amended, modified, restated, or supplemented from time to time), the terms, covenants, conditions and provisions of which are incorporated herein by reference and to the following additional covenants, restrictions, easements, charges, liens and other provisions set forth in this Supplemental Declaration (as may be amended, modified, restated, or supplemented from time to time).

1. Condominium Form of Ownership. If and when all or any portion of the Lot comprising the Property shall be subjected to a condominium form of ownership (or any similar form of multiple or interval ownership), the unit owners' association(s) shall be the agent(s) of the respective unit owners for the purpose of casting the votes and payment of the Assessments (as defined in the Declaration) applicable to such Lot or portion thereof. Except as expressly provided otherwise in the foregoing sentence, the Association shall continue to have all of the same rights, duties, obligations, remedies, enforcement and lien rights with respect to all Owners of the Lot, including, but not limited to condominium unit owners, and condominium unit owners shall have the same rights, duties and obligations as Owners under the Declaration. No Condominium regime or similar form of multiple or interval ownership shall be established or imposed on any Lot unless

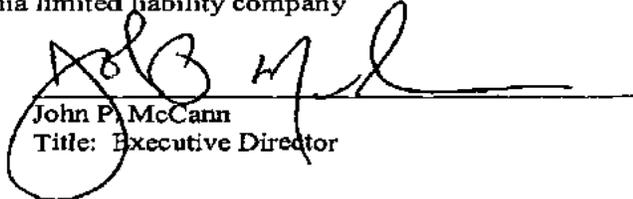
and until all proposed documents creating and/or governing such regime, including, without limitation, the Declaration of Condominium, Bylaws, Articles of Incorporation, Plats and Plans, and any Rules and Regulations, have been submitted to Declarant during the Period of Declarant Control, and thereafter to the Association Board, for its review and approval. The Declaration, and lien rights arising thereunder, shall be superior in title to any Declaration of Condominium or similar instrument.

2. Amendment and Duration. This Supplemental Declaration shall run with and bind the Property and the Owners and Occupants thereof (including, without limitation, the owners and occupants of any condominium units). This Supplemental Declaration shall continue and remain in full force and effect for the duration of the Declaration, and may be amended as set forth in Section 12.2 of the Declaration.

*[Remainder of page intentionally left blank. Signatures appear on following pages.]*

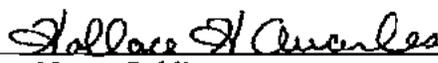
NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By:

  
John P. McCann  
Title: Executive Director

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in the City/County of James City, Commonwealth of Virginia on this 24<sup>th</sup> day of June, 2005, by John P. McCann, as Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

  
Notary Public



My commission expires: 6-30-05

**EXHIBIT A**

All that certain lot, piece or parcel of land, together with improvements thereon and appurtenances thereto belonging, lying and being on the West line of Center Street, James City County, Virginia, containing .380 acres, more or less, shown as Block 8 Parcel D on the Subdivision Plat prepared by G. T. Wilson, Jr. dated August 16, 2004, entitled "Plat of Subdivision, Showing a portion of Center Street, Block 8 Parcel D, Block 8 Parcel E and the remainder of Block 8 Parcel A prepared for New Town Associates, LLC," which Plat is recorded as Instrument No. 040027333 in the Clerk's Office of the Circuit Court, James City County, Virginia and to which Plat reference is hereby made for a more particular description of the property herein conveyed.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 6-27-2005  
at 2:30 PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX	LOCAL TAX	ADDITIONAL TAX
\$ _____	\$ _____	\$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

#9130583 v1

#5

110 018618

Tax Parcel Number: a portion of 3840100050

**SUPPLEMENTAL DECLARATION**

**THIS SUPPLEMENTAL DECLARATION** is made this 19 day of April, 2011, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company, which is the successor "Declarant" to C.C. Casey Limited Company, a Virginia limited liability company, (Grantor and Grantee); **NEW TOWN COMMERCIAL ASSOCIATION**, a Virginia non-stock corporation, and (Grantor and Grantee); and **WILLIAMSBURG DEVELOPERS, LLC**, a Virginia limited liability company.

**RECITALS**

A. By instrument entitled "Master Declaration of Covenants, Easements and Restrictions", dated June 22, 1998 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and the County of James City, Virginia (the "Clerk's Office") as Instrument No. 980013868 (the "Original Declaration"), C.C. Casey Limited Company, a Virginia limited liability company, as "Declarant" subjected certain real property more particularly described in Exhibit A thereto to certain covenants, easements, liens, charges and restrictions set forth therein.

B. By Assignment and Assumption Agreement dated October 23, 2001 and recorded in the Clerk's Office as Instrument No. 010022621, C.C. Casey Limited Company assigned all of its right, title and interest as "Declarant" under the Original Declaration to New Town Associates, LLC (hereinafter, "Declarant").

Prepared by/Return to:  
Kaufman & Canoles  
4801 Courthouse Street, Suite 300  
Williamsburg, VA 23188

*Return to*  
Williamsburg Paralegal, Inc. ✓  
4680-181 Monticello Ave.  
RMB #173  
Williamsburg, VA 23188

C. By Amended and Restated Master Declaration of Covenants, Easements and Restrictions for New Town Commercial Properties, dated December 27, 2002 and recorded in the Clerk's Office as Instrument No. 020031430, by Declarant and Casey Office, LLC, a Virginia limited liability company (hereinafter, "Declaration"), the Original Declaration was amended and restated in its entirety.

D. All or a portion of that certain property (the "Parking Area") shown as "BLOCK 3, PARCEL 'A'" on that certain plat (the "Original Plat") entitled "PLAT OF SUBDIVISION SHOWING MAIN STREET BLOCK 1 PARCEL A, BLOCK 2 PARCELS A, H, I AND J, BLOCK 3 PARCELS A, E, F AND G, NEW TOWN, BEING A PORTION OF THE PROPERTY OWNED BY NEW TOWN ASSOCIATES, LLC", prepared by AES Consulting Engineers, dated June 6, 2005, last revised November 3, 2005, which plat is recorded as Instrument No. 050027946 in the Clerk's Office, is identified as Common Area pursuant to the Declaration.

E. New Town Commercial Association ("NTCA") is the current owner of the Parking Area. NTCA and Declarant desire to remove and release from the covenants, restrictions, easements, charges, liens and other provisions of the Declaration, the portion of the Parking Area (the "Removed Property") shown as a part of "NEW BLOCK 3, PARCEL E" on that certain plat (the "New Plat") entitled "PLAT SHOWING PARCEL LINE MODIFICATION BETWEEN NEW TOWN COMMERCIAL ASSOCIATION AND WILLIAMSBURG DEVELOPERS, LLC", prepared by Balzer and Associates, Inc., dated December 13, 2010, which plat is recorded as Instrument No. 110001312 in the Clerk's Office, which Removed Property is more particularly described on Exhibit A, attached hereto and made a part hereof.

F. Williamsburg Developers, LLC joins in this Supplemental Declaration for the purpose of evidencing its consent to such removal and acknowledging that the Removed Property

will be submitted to the covenants, restrictions, easements, charges, liens and other provisions of the Declaration by a separate Supplemental Declaration to be recorded contemporaneously with this Supplemental Declaration.

**NOW, THEREFORE**, pursuant to the authority of Declarant as set forth in Article II, Section 2.2 of the Declaration, Declarant hereby amends the Declaration to remove and release the Removed Property from the covenants, restrictions, easements, charges, liens and other provisions of the Declaration, including without limitation, any designation of the Removed Property as "Common Area" or "Parking Area" (as defined in the Declaration).

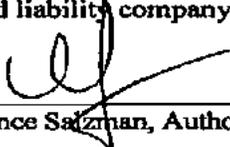
[This area intentionally left blank. Signature appears on following pages.]

[Signature page to Supplemental Declaration]

IN WITNESS WHEREOF, the undersigned has caused this Supplemental Declaration to be executed on its behalf by its duly authorized representative.

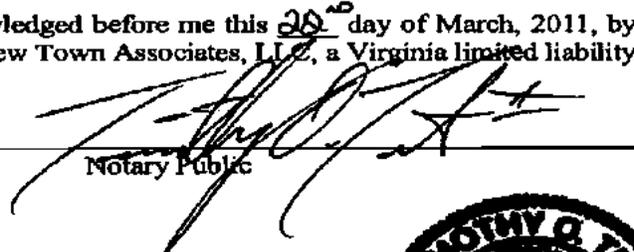
NEW TOWN ASSOCIATES, LLC,  
a Virginia limited liability company

By:

  
Lawrence Salzman, Authorized Agent

COMMONWEALTH OF VIRGINIA  
COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of March, 2011, by Lawrence Salzman, as Authorized Agent of New Town Associates, LLC, a Virginia limited liability company, on its behalf.

  
Notary Public

My commission expires: 2.28.2013

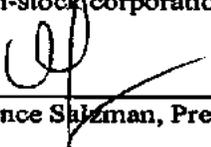
Registration number: 306659



[SEAL]

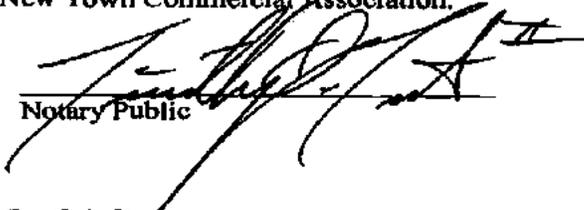
[Signature page to Supplemental Declaration]

NEW TOWN COMMERCIAL ASSOCIATION,  
a Virginia non-stock corporation

By:   
Lawrence Salzman, President

COMMONWEALTH OF VIRGINIA,  
COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of March, 2011 by  
Lawrence Salzman, as President of New Town Commercial Association.

  
Notary Public

My commission expires: 2.28.2013

Registration number: 306659



[Signature page to Supplemental Declaration]

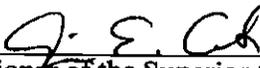
**WILLIAMSBURG DEVELOPERS, LLC,**  
a Virginia limited liability company

By:  (SEAL)  
Joseph R. Baranowski, Member

STATE OF CONNECTICUT        )  
  )ss.:  
COUNTY OF HARTFORD        )

On this 19<sup>th</sup> day of April, 2011, before me personally appeared Joseph R. Baranowski, acknowledged himself to be a Member of Williamsburg Developers, LLC, a Virginia limited liability company, and that he, as such Member, being authorized so to do, executed the foregoing instrument for the purposes therein contained and as his and its free act and deed of the limited liability company.

In witness whereof I hereunto set my hand.

  
Commissioner of the Superior Court  
Notary Public  
~~My Commission Expires:~~

#6308731

**EXHIBIT A**

**Legal Description**

A parcel of land situated in Berkeley District, James City County, Virginia, and more particularly described as follows:

COMMENCING at a point on the western line of Ironbound Road 885.42 feet south of the intersection of the western line of Ironbound Road and the southern line of Discovery Park Boulevard; thence departing the western line of Ironbound Road, N80°37'00"W, 37.10 feet to a point; thence N09°23'00"E, 7.47 feet to THE POINT OF BEGINNING; thence N80°37'00"W, 26.39 feet to a point; thence N37°42'08"W, 145.00 feet to a point; thence N52°17'52"E, 107.02 feet to a point; thence S37°50'21"E, 81.35 feet to a point; thence S09°23'00"W, 121.86 feet to a point being THE POINT OF BEGINNING.

CONTAINING 13,734 Sq.Ft. or 0.315 Acre, more or less

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 2 Sept. 2011  
at 10:22 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

# **Complaint**

**Bennington on the Park Condominium Inc**

Bennington on the Park Condominium Unit Owners Association ("Association")  
Association Complaint procedure

Pursuant to Chapter 29 of Title 55 of the Code of Virginia, and following Common Interest Community Ombudsman Regulations (18 VAC 48-70), the Board of Directors of the Association ("Board") adopts the following complaint procedure for use by persons who wish to file written complaints with the Association regarding the action, inaction, or decision by the Board, managing agent, or Association inconsistent with applicable laws and regulations.

This complaint procedure and form shall be provided upon request to all members of the Association and to citizens. This complaint procedure and form shall be included as an attachment to the resale certificate or the Association disclosure packet. A record of each complaint filed with the Association shall be maintained in accordance with § 55-530 E 1 of the Code of Virginia.

1. The complaint must be filed in writing on the attached form, which shall be provided upon request.
2. The complaint shall be delivered to the Association c/o the association manger, Town Management, P O Box 5010, 4801 Courthouse St, Suite 128, Williamsburg, VA 23188.
3. The complainant shall describe the complaint using the form provided. The complainant shall include references to specific facts, dates, persons, and circumstances at issue and shall include a requested action or resolution. In addition, to the extent the complainant has knowledge of the law or regulation applicable to the complaint, the complainant shall provide that reference.
4. The Association shall provide written acknowledgment of receipt of the complaint to the complainant within seven days of receipt.
5. All notices to complainant by the Board or Association in the context of this procedure shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the complainant at the address provided, or by electronic means provided sender retains sufficient proof of delivery.
6. Within 45 days of receipt of the complaint, the Board shall identify and request additional information that is necessary for the complainant to provide in order to continue processing the complaint. The Board shall give the complainant 45 days to respond to the request for additional information. If after 45 days the complainant has not provided the additional information requested, the Board shall continue to process the complaint as outlined in this procedure. The Board shall notify the complainant that the Board will process the complaint without the requested additional information.
7. The Board shall schedule a meeting to consider the complaint within 45 days of a determination by the Board that the Board has received from the complainant information, documentation, and material sufficient to process the complaint or a determination by the Board that the complainant has failed to provide such additional information as requested.
8. The complainant shall be notified of the date, time, and location of the Board meeting at which the complaint will be considered at least seven days prior to the date of such meeting.
9. After the final determination is made by the Board, written notice of the final determination shall be delivered to the complainant within seven days.
10. The notice of final determination shall be dated as of the date of issuance and include specific citations to applicable Association governing documents, laws, or regulations that led to the final determination, as well as the registration number of the Association. If applicable, the name and license number of the common interest community manager shall also be provided.
11. The notice of final determination shall include the complainant's right to file a Notice of Final Adverse Decision with the Common Interest Community Board via the Common Interest Community Ombudsman and the applicable contact information.

**Bennington on the Park Condominium Unit Owners Association ("Association")  
c/o Town Management (Managing Agent)  
P O Box 5010, 4801 Courthouse St, Suite 128, Williamsburg, VA 23188.  
ASSOCIATION COMPLAINT FORM**

The Board of Directors (Board) of the Association has established this complaint form for use by persons who wish to file written complaints with the Association regarding the action, inaction, or decision by the governing board, managing agent, or Association inconsistent with applicable laws and regulations.

Legibly describe the complaint in the area provided below, as well as the requested action or resolution of the issues described in the complaint. Please include references to the specific facts and circumstances at issue and the provisions of Virginia laws and regulations that support the complaint. If there is insufficient space below, please attach a separate sheet of paper to this complaint form. Also, attach any supporting documents, correspondence and other materials related to the complaint. Include your name and address on all attached papers, supporting documents, correspondence and other materials.

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Sign, date, and print your name and address below and submit this completed form to the Association at the address listed above.

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Printed Name	Signature	Date
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Mailing Address

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Lot/Unit Address (for Association member or tenant)

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E-mail Address	and	Phone Number
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If the Board issues a final decision adverse to the complaint, you have the right to file a notice of final adverse decision with the Common Interest Community Board (CICB) in accordance with the regulations promulgated by the CICB. The notice shall be filed within 30 days of the date of the final adverse decision, shall be in writing on forms provided by the Office of the Common Interest Community Ombudsman (Ombudsman), shall include copies of any supporting documents, correspondence and other materials related to the decision, and shall be accompanied by a \$25 filing fee. The Ombudsman may be contacted at:

Office of the Common Interest Community Ombudsman  
Department of Professional and Occupational Regulation  
9960 Mayland Drive, Suite 400, Richmond, VA 23233  
804/367-2941 \* [CICOmbudsman@dpor.virginia.gov](mailto:CICOmbudsman@dpor.virginia.gov)

# **Complaint**

**New Town Commercial Association Inc**

New Town Commercial Association ("Association")  
Association Complaint procedure

Pursuant to Chapter 29 of Title 55 of the Code of Virginia, and following Common Interest Community Ombudsman Regulations (18 VAC 48-70), the Board of Directors of the Association ("Board") adopts the following complaint procedure for use by persons who wish to file written complaints with the Association regarding the action, inaction, or decision by the Board, managing agent, or Association inconsistent with applicable laws and regulations.

This complaint procedure and form shall be provided upon request to all members of the Association and to citizens. This complaint procedure and form shall be included as an attachment to the resale certificate or the Association disclosure packet. A record of each complaint filed with the Association shall be maintained in accordance with § 55-530 E 1 of the Code of Virginia.

1. The complaint must be filed in writing on the attached form, which shall be provided upon request.
2. The complaint shall be delivered to the Association c/o the association manger, Town Management, P O Box 5010, 4801 Courthouse St, Suite 128, Williamsburg, VA 23188.
3. The complainant shall describe the complaint using the form provided. The complainant shall include references to specific facts, dates, persons, and circumstances at issue and shall include a requested action or resolution. In addition, to the extent the complainant has knowledge of the law or regulation applicable to the complaint, the complainant shall provide that reference.
4. The Association shall provide written acknowledgment of receipt of the complaint to the complainant within seven days of receipt.
5. All notices to complainant by the Board or Association in the context of this procedure shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the complainant at the address provided, or by electronic means provided sender retains sufficient proof of delivery.
6. Within 45 days of receipt of the complaint, the Board shall identify and request additional information that is necessary for the complainant to provide in order to continue processing the complaint. The Board shall give the complainant 45 days to respond to the request for additional information. If after 45 days the complainant has not provided the additional information requested, the Board shall continue to process the complaint as outlined in this procedure. The Board shall notify the complainant that the Board will process the complaint without the requested additional information.
7. The Board shall schedule a meeting to consider the complaint within 45 days of a determination by the Board that the Board has received from the complainant information, documentation, and material sufficient to process the complaint or a determination by the Board that the complainant has failed to provide such additional information as requested.
8. The complainant shall be notified of the date, time, and location of the Board meeting at which the complaint will be considered at least seven days prior to the date of such meeting.
9. After the final determination is made by the Board, written notice of the final determination shall be delivered to the complainant within seven days.
10. The notice of final determination shall be dated as of the date of issuance and include specific citations to applicable Association governing documents, laws, or regulations that led to the final determination, as well as the registration number of the Association. If applicable, the name and license number of the common interest community manager shall also be provided.
11. The notice of final determination shall include the complainant's right to file a Notice of Final Adverse Decision with the Common Interest Community Board via the Common Interest Community Ombudsman and the applicable contact information.

**New Town Commercial Association ("Association")  
c/o Town Management (Managing Agent)  
P O Box 5010, 4801 Courthouse St, Suite 128, Williamsburg, VA 23188.**

**ASSOCIATION COMPLAINT FORM**

The Board of Directors (Board) of the Association has established this complaint form for use by persons who wish to file written complaints with the Association regarding the action, inaction, or decision by the governing board, managing agent, or Association inconsistent with applicable laws and regulations.

Legibly describe the complaint in the area provided below, as well as the requested action or resolution of the issues described in the complaint. Please include references to the specific facts and circumstances at issue and the provisions of Virginia laws and regulations that support the complaint. If there is insufficient space below, please attach a separate sheet of paper to this complaint form. Also, attach any supporting documents, correspondence and other materials related to the complaint. Include your name and address on all attached papers, supporting documents, correspondence and other materials.

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Sign, date, and print your name and address below and submit this completed form to the Association at the address listed above.

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Printed Name	Signature	Date
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Mailing Address

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Lot/Unit Address (for Association member or tenant)

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E-mail Address	and	Phone Number
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If the Board issues a final decision adverse to the complaint, you have the right to file a notice of final adverse decision with the Common Interest Community Board (CICB) in accordance with the regulations promulgated by the CICB. The notice shall be filed within 30 days of the date of the final adverse decision, shall be in writing on forms provided by the Office of the Common Interest Community Ombudsman (Ombudsman), shall include copies of any supporting documents, correspondence and other materials related to the decision, and shall be accompanied by a \$25 filing fee. The Ombudsman may be contacted at:

Office of the Common Interest Community Ombudsman  
Department of Professional and Occupational Regulation  
9960 Mayland Drive, Suite 400, Richmond, VA 23233  
804/367-2941 \* [CICombudsman@dpor.virginia.gov](mailto:CICombudsman@dpor.virginia.gov)

**Design Document**  
**Bennington on the Park Condominium Inc**

## **ARCHITECTURAL GUIDELINES**

Any changes to the exterior appearances of the Unit must be approved in advance by the Association and by The Master Association.

**Design Document**  
**New Town Commercial Association Inc**

**EXHIBIT 9**

**ARCHITECTURAL GUIDELINES**

## **ARCHITECTURAL GUIDELINES**

- All new construction is governed by the New Town Design Review Board
- All new site plans are governed by the New Town Design Review Board
- All changes to the exterior of any building are governed by the New Town Design Review Board
- All exterior signage and flags are governed by the New Town Design Review Board

Contact Town Management at 757-565-6200 for information on how to submit requests to the Design Review Board (DRB).

**Insurance Dec Page**  
**New Town Commercial Association Inc**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/17/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> WILLIAMSBURG INSURANCE AGENCY LLC 4324 NEW TOWN AVE STE B2 WILLIAMSBURG VA 23188-2691		<b>CONTACT NAME:</b> <b>PHONE (A/C, No. Ext):</b> <b>FAX (A/C, No):</b> <b>E-MAIL ADDRESS:</b>	
		<b>INSURER(S) AFFORDING COVERAGE</b>	
		<b>INSURER A:</b> NATIONWIDE MUTUAL FIRE INSURANCE COMPA	<b>NAIC #</b> 23779
<b>INSURED</b>		<b>INSURER B:</b> NATIONWIDE MUTUAL INSURANCE COMPANY	23787
NEW TOWN COMMERCIAL ASSOCIATION, INC. 4801 COURTHOUSE ST STE 128 WILLIAMSBURG VA 23188-2678		<b>INSURER C:</b>	
		<b>INSURER D:</b>	
		<b>INSURER E:</b>	
		<b>INSURER F:</b>	

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			ACP GLO 3026706555	11/15/2016	11/15/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			ACP CAF 3026706555	11/15/2016	11/15/2017	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	<b>CRIME - FIDELITY</b>			ACP CRM 3026706555	11/15/2016	11/15/2017	EMPLOYEE DISHONESTY 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

MASTER PROPERTY POLICY COVERS ONLY COMMON AREAS I.E. SIGNS AND LIGHT POSTS. NO COVERAGE FOR DWELLINGS.

**CERTIFICATE HOLDER****CANCELLATION**

NEW TOWN COMMERCIAL ASSOCIATION, INC. 4801 COURTHOUSE ST STE 128 WILLIAMSBURG VA 23188-2678	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE Brenda Williams <i>Brenda Williams</i>
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**Reserve Reports**  
**Bennington on the Park Condominium Inc**

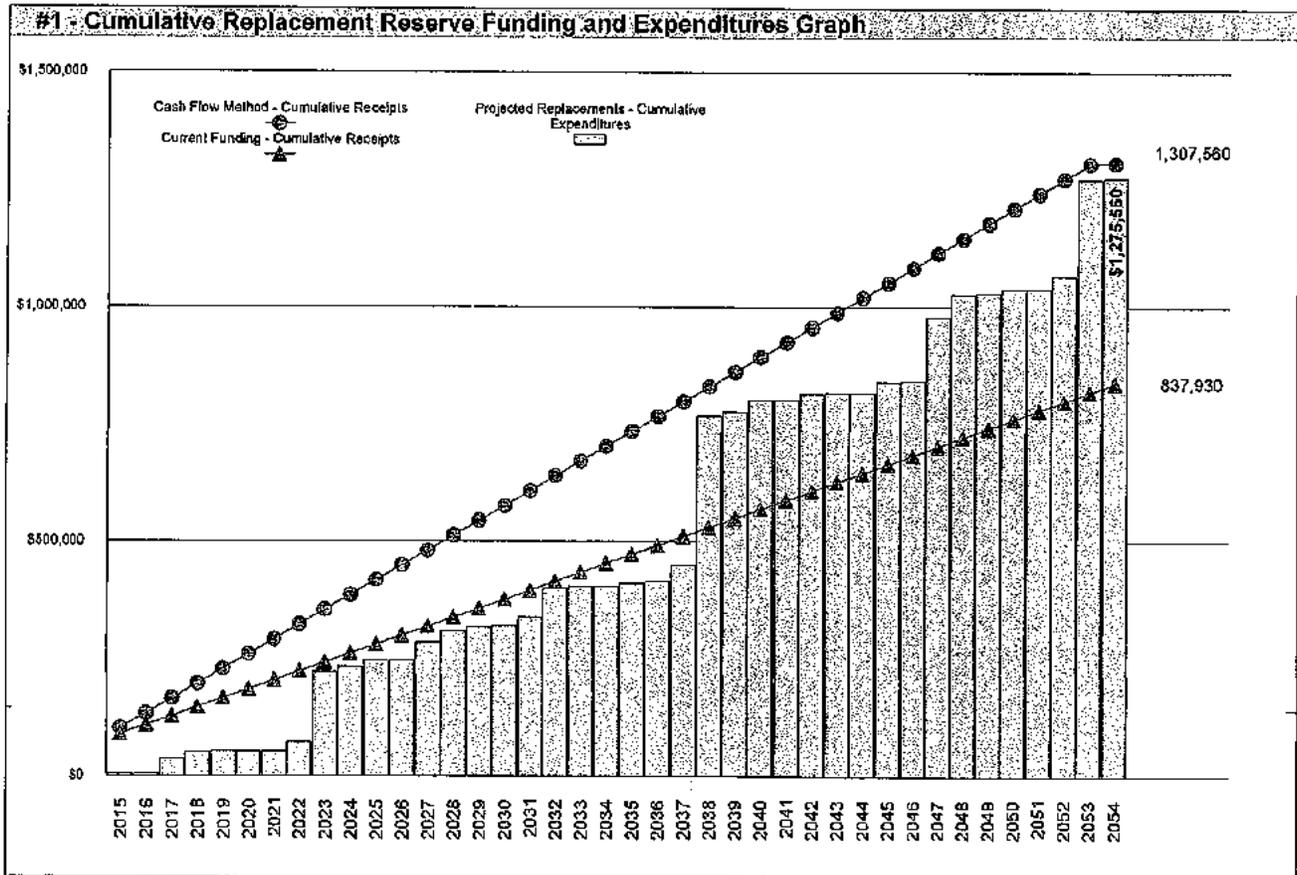
## EXECUTIVE SUMMARY

The Bennington on the Park Replacement Reserve Analysis uses the Cash Flow Method (CFM) to calculate Replacement Reserve funding for the periodic replacement of the 92 Projected Replacements identified in the Replacement Reserve Inventory.

**\$31,678** | **RECOMMENDED REPLACEMENT RESERVE FUNDING FOR THE STUDY YEAR, 2015**  
\$62.85 Per unit (average), minimum monthly funding of Replacement Reserves

We recommend the Association adopt a Replacement Reserve Funding Plan based on the annual funding recommendation above. Inflation adjusted funding for subsequent years is shown on Page A5.

Bennington on the Park reports a Starting Balance of \$69,930 and Annual Funding totaling \$19,200. Current funding is inadequate to fund the \$1,275,560 of Projected Replacements scheduled in the Replacement Reserve Inventory over the 40-year Study Period. See Page A3 for a more detailed evaluation.



The Current Funding Objective as calculated by the Component Method (Fully Funded) is \$175,785 making the reserve account 39.8% funded. See the Appendix for more information on this method.

The starting balance is calculated from data provided by the Manager.

**REPLACEMENT RESERVE ANALYSIS - GENERAL INFORMATION**

The Bennington on the Park Replacement Reserve Analysis calculations of recommended funding of Replacement Reserves by the Cash Flow Method and the evaluation of the Current Funding are based upon the same Study Year, Study Period, Beginning Balance, Replacement Reserve Inventory and Level of Service.

**2015 | STUDY YEAR**

The Association reports that their accounting year begins on January 1, and the Study Year, the first year evaluated by the Replacement Reserve Analysis, begins on January 1, 2015.

**40 Years | STUDY PERIOD**

The Replacement Reserve Analysis evaluates the funding of Replacement Reserves over a 40-year Study Period.

**\$69,930 | STARTING BALANCE**

The Association reports Replacement Reserves on Deposit totaling \$69,930 at the start of the Study Year.

**Level One | LEVEL OF SERVICE**

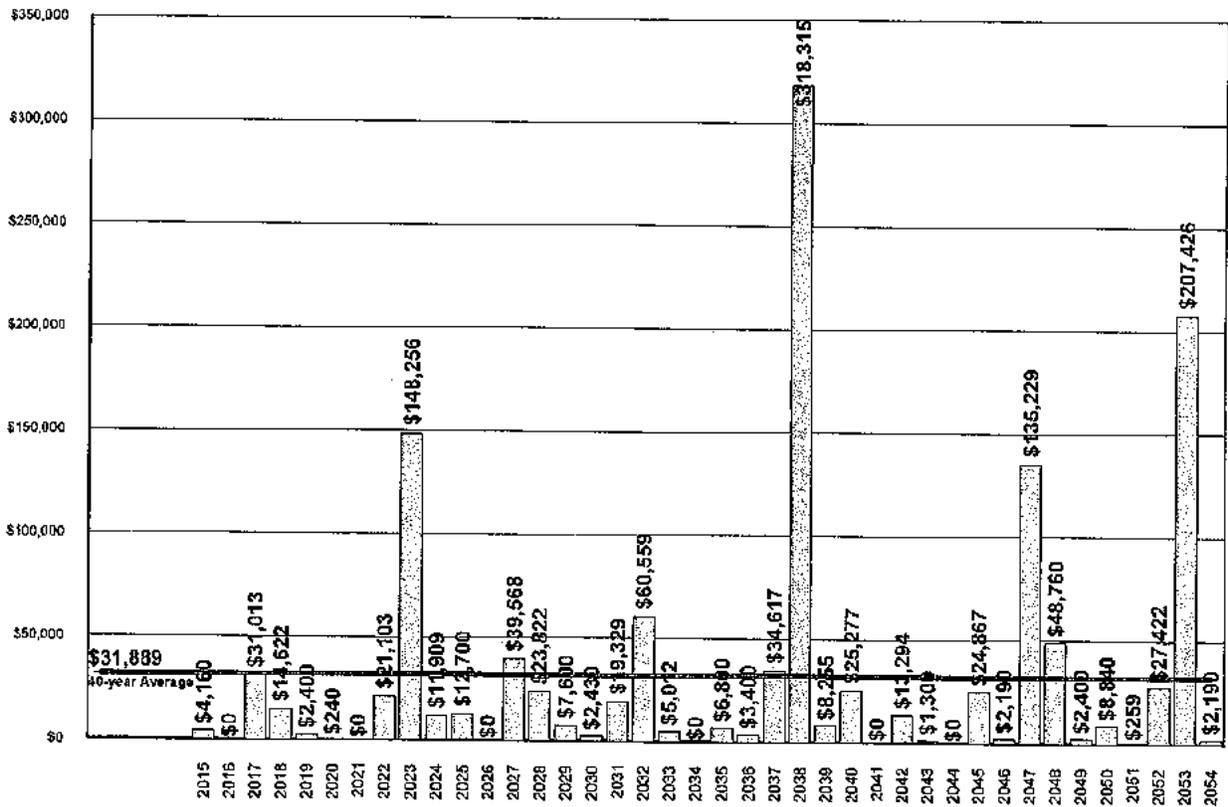
The Replacement Reserve Inventory has been developed in compliance with the National Reserve Study Standards for a Level One Study, as defined by the Community Associations Institute (CAI).

**\$1,275,560 | REPLACEMENT RESERVE INVENTORY - PROJECTED REPLACEMENTS**

The Bennington on the Park Replacement Reserve Inventory identifies 92 items that will require periodic replacement, that are to be funded from Replacement Reserves. We estimate the cost of these replacements will be \$1,275,560 over the 40-year Study Period. The Projected Replacements are divided into 14 major categories starting on Page B3. Pages B1-B2 provide detailed information on the Replacement Reserve Inventory.

**#2 - Annual Expenditures for Projected Replacements Graph**

This graph shows annual expenditures for Projected Replacements over the 40-year Study Period. The red line shows the average annual expenditure of \$31,889. Section C provides a year by year Calendar of these expenditures.



**UPDATING**

**UPDATING OF THE FUNDING PLAN**

The Association has a responsibility to review the Funding Plan annually. The review should include a comparison and evaluation of actual reserve funding with recommended levels shown on Page A4 and A5. The Projected Replacements listed on Page C2 should be compared with any replacements accomplished and funded from Replacement Reserves. Discrepancies should be evaluated and if necessary, the Reserve Study should be updated or a new study commissioned. We recommend annual increases in replacement reserve funding to account for the impact of inflation. Inflation Adjusted Funding is discussed on Page A5.

**UPDATING OF THE REPLACEMENT RESERVE STUDY**

At a minimum, the Replacement Reserve Study should be professionally updated every three to five years or after completion of a major replacement project. Updating should also be considered if during the annual review of the Funding Plan, discrepancies are noted between projected and actual reserve funding or replacement costs. Updating may also be necessary if there is a meaningful discrepancy between the actual inflation rate and the inflation rate used for the Inflation Adjusted Funding of Replacement Reserves on Page A5.

**ANNUAL EXPENDITURES AND CURRENT FUNDING**

The annual expenditures that comprise the \$1,275,560 of Projected Expenditures over the 40-year Study Period and the impact of the Association continuing to fund Replacement Reserves at the current level are detailed in Table 3.

**#3 - Table of Annual Expenditures and Current Funding Data - Years 1 through 40**

Year	2016	2016	2017	2018	2019	2020	2021	2022	2023	2024
Starting Balance	\$69,930									
Projected Replacements	(\$4,189)		(\$31,013)	(\$14,622)	(\$2,400)	(\$240)		(\$21,103)	(\$149,258)	(\$11,809)
Annual Deposit	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200
End of Year Balance	\$84,970	\$104,170	\$92,358	\$98,938	\$113,736	\$132,896	\$151,888	\$149,893	\$20,937	\$28,229
Cumulative Expenditures	(\$4,189)	(\$4,189)	(\$35,173)	(\$49,794)	(\$52,194)	(\$52,434)	(\$52,494)	(\$73,537)	(\$221,793)	(\$233,702)
Cumulative Receipts	\$89,130	\$108,330	\$127,530	\$146,730	\$165,930	\$185,130	\$204,330	\$223,530	\$242,730	\$261,930
Year	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
Projected Replacements	(\$12,700)		(\$39,568)	(\$23,822)	(\$7,800)	(\$2,130)	(\$19,329)	(\$50,559)	(\$5,012)	
Annual Deposit	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200
End of Year Balance	\$34,729	\$53,929	\$93,591	\$28,939	\$40,539	\$57,309	\$57,193	\$15,822	\$30,010	\$48,210
Cumulative Expenditures	(\$249,402)	(\$248,402)	(\$285,969)	(\$309,791)	(\$317,391)	(\$318,821)	(\$330,149)	(\$390,708)	(\$404,720)	(\$404,720)
Cumulative Receipts	\$281,130	\$360,330	\$319,530	\$338,730	\$357,930	\$377,130	\$396,330	\$415,530	\$434,730	\$453,930
Year	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044
Projected Replacements	(\$8,800)	(\$3,400)	(\$24,817)	(\$316,315)	(\$8,255)	(\$25,277)		(\$13,294)	(\$1,800)	
Annual Deposit	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200
End of Year Balance	\$61,510	\$77,410	\$91,993	(\$237,122)	(\$228,177)	(\$232,254)	(\$219,054)	(\$207,148)	(\$189,245)	(\$170,048)
Cumulative Expenditures	(\$411,320)	(\$414,920)	(\$449,537)	(\$767,852)	(\$776,107)	(\$801,384)	(\$801,384)	(\$814,678)	(\$815,878)	(\$815,878)
Cumulative Receipts	\$473,130	\$492,330	\$511,530	\$530,730	\$549,930	\$569,130	\$588,330	\$607,530	\$626,730	\$645,930
Year	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054
Projected Replacements	(\$24,887)	(\$2,190)	(\$135,229)	(\$49,780)	(\$2,400)	(\$8,840)	(\$299)	(\$27,422)	(\$207,428)	(\$2,190)
Annual Deposit	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200	\$19,200
End of Year Balance	(\$175,715)	(\$158,705)	(\$274,734)	(\$304,294)	(\$287,494)	(\$277,134)	(\$258,192)	(\$296,414)	(\$454,640)	(\$437,830)
Cumulative Expenditures	(\$840,845)	(\$843,035)	(\$978,264)	(\$1,027,024)	(\$1,028,424)	(\$1,038,264)	(\$1,038,522)	(\$1,055,944)	(\$1,273,370)	(\$1,275,560)
Cumulative Receipts	\$665,130	\$684,330	\$703,530	\$722,730	\$741,930	\$761,130	\$780,330	\$799,530	\$818,730	\$837,930

**EVALUATION OF CURRENT FUNDING**

The evaluation of Current Funding (Starting Balance of \$69,930 & annual funding of \$19,200), is done in today's dollars with no adjustments for inflation or interest earned on Replacement Reserves. The evaluation assumes Replacement Reserves will only be used for the 92 Projected Replacements identified in the Replacement Reserve Inventory and that the Association will continue Annual Funding of \$19,200 throughout the 40-year Study Period.

Annual Funding of \$19,200 is approximately 61 percent of the \$31,678 recommended Annual Funding calculated by the Cash Flow Method for 2015, the Study Year.

Evaluation of the 92 Projected Replacements calculates an average annual expenditure over the next 40 years of \$31,889. Annual funding of \$19,200 is 60 percent of the average annual expenditure.

Our calculations identify funding shortfalls in 17 years of the Study Period with the initial shortfall in 2038. The largest shortfall, \$-454,640, occurs in 2038. All shortfalls can be seen and evaluated in Table 3 above.

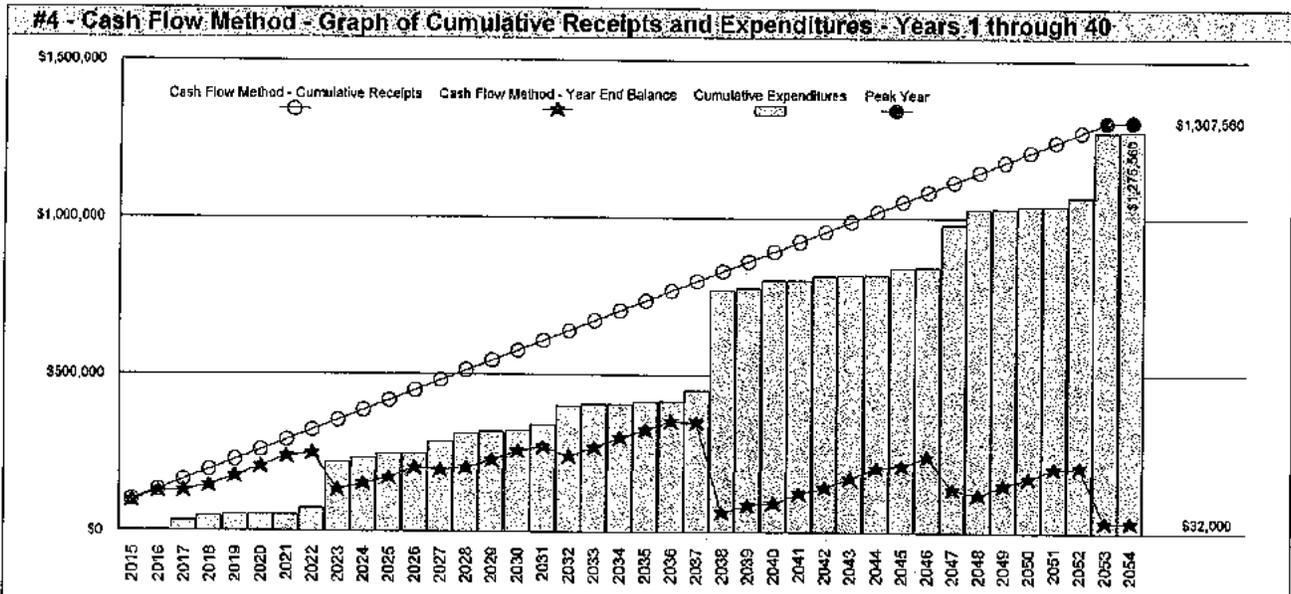
In summary, Current Funding as reported by the Association and shown above, does not provide adequate funding for the \$1,275,560 of Projected Replacements scheduled in the Replacement Reserve Inventory over the Study Period.

**CASH FLOW METHOD FUNDING**

**\$31,678** RECOMMENDED REPLACEMENT RESERVE FUNDING FOR 2015  
\$62.85 Per unit (average), minimum monthly funding of Replacement Reserves

Recommended Replacement Reserve Funding has been calculated using the Cash Flow Method (also called the Straight Line or Threshold Method). This method calculates a constant annual funding between peaks in cumulative expenditures, while maintaining a Minimum Balance (threshold) in the Peak Years.

- **Peak Years.** The First Peak Year occurs in 2053 with Replacement Reserves on Deposit dropping to the Minimum Balance after the completion of \$1,273,370 of replacements from 2015 to 2053. Recommended funding declines from \$31,678 in 2053 to \$2,190 in 2054. Peak Years are identified in Chart 4 and Table 5.
- **Minimum Balance.** The calculations assume a Minimum Balance of \$32,000 in Replacement Reserves. This is approx. 12 months of average expenditures based on the \$31,889, 40-year average annual expenditure.
- **Cash Flow Method Study Period.** Cash Flow Method calculates funding for \$1,275,560 of expenditures over the 40-year Study Period. It does not include funding for any projects beyond 2054 and in 2054, the end of year balance will always be the Minimum Balance.



**#5 - Cash Flow Method - Table of Receipts & Expenditures - Years 1 through 40**

Year	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Starting Balance	\$99,930									
Projected Replacements	(\$4,160)		(\$31,013)	(\$14,822)	(\$2,400)	(\$240)			(\$21,103)	(\$148,256)
Annual Deposit	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678
End of Year Balance	\$97,448	\$129,128	\$129,791	\$146,848	\$176,128	\$207,564	\$239,242	\$249,817	\$133,239	\$153,908
Cumulative Expenditures	\$4,160	\$4,160	\$35,173	\$49,794	\$52,194	\$52,434	\$52,434	\$73,537	\$221,793	\$233,702
Cumulative Receipts	\$101,808	\$133,208	\$164,864	\$196,542	\$228,320	\$259,998	\$291,676	\$323,354	\$355,032	\$386,709
Year	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
Projected Replacements	(\$12,700)		(\$39,588)	(\$29,822)	(\$7,600)	(\$2,430)	(\$19,329)	(\$60,559)	(\$5,012)	
Annual Deposit	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678
End of Year Balance	\$171,986	\$203,664	\$195,774	\$203,831	\$227,708	\$256,956	\$289,300	\$240,425	\$287,091	\$298,769
Cumulative Expenditures	(\$246,402)	(\$246,402)	(\$285,989)	(\$309,791)	(\$317,391)	(\$319,821)	(\$339,149)	(\$390,708)	(\$404,720)	(\$404,720)
Cumulative Receipts	\$418,397	\$450,065	\$481,743	\$513,421	\$545,099	\$576,777	\$608,455	\$640,133	\$671,811	\$703,488
Year	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044
Projected Replacements	(\$8,800)	(\$3,409)	(\$34,617)	(\$318,316)	(\$8,265)	(\$25,277)			(\$13,284)	(\$1,300)
Annual Deposit	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678
End of Year Balance	\$323,647	\$351,925	\$348,988	\$82,348	\$85,772	\$62,173	\$128,851	\$142,235	\$172,812	\$204,290
Cumulative Expenditures	(\$411,520)	(\$414,929)	(\$449,537)	(\$767,852)	(\$778,107)	(\$801,384)	(\$801,384)	(\$801,384)	(\$814,876)	(\$815,978)
Cumulative Receipts	\$735,167	\$768,845	\$798,523	\$830,201	\$861,879	\$893,557	\$925,235	\$956,912	\$988,590	\$1,020,268
Year	2045	2046	2047	2048	2049	2050	2051	2052	1st Peak - 2053	2nd Peak - 2054
Projected Replacements	(\$24,887)	(\$2,190)	(\$135,229)	(\$46,700)	(\$2,400)	(\$8,840)	(\$259)	(\$2,422)	(\$207,426)	(\$2,190)
Annual Deposit	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678	\$31,678
End of Year Balance	\$211,101	\$240,589	\$137,038	\$119,958	\$149,234	\$172,072	\$203,492	\$207,748	\$32,000	\$32,000
Cumulative Expenditures	(\$840,845)	(\$843,035)	(\$978,284)	(\$1,027,024)	(\$1,029,424)	(\$1,038,264)	(\$1,038,502)	(\$1,065,944)	(\$1,273,370)	(\$1,275,560)
Cumulative Receipts	\$1,051,848	\$1,083,824	\$1,115,302	\$1,146,980	\$1,178,658	\$1,210,336	\$1,242,014	\$1,273,592	\$1,305,370	\$1,307,690

## INFLATION ADJUSTED FUNDING

The Cash Flow Method calculations on Page A4 have been done in today's dollars with no adjustment for inflation. At Miller + Dodson, we believe that long-term inflation forecasting is effective at demonstrating the power of compounding, not at calculating appropriate funding levels for Replacement Reserves. We have developed this proprietary model to estimate the short-term impact of inflation on Replacement Reserve funding.

### **\$31,678** 2015 - CASH FLOW METHOD RECOMMENDED FUNDING

The 2015 Study Year calculations have been made using current replacement costs (see Page B2), modified by the Analyst for any project specific conditions.

### **\$33,234** 2016 - INFLATION ADJUSTED FUNDING

A new analysis calculates 2016 funding based on three assumptions:

- Replacement Reserves on Deposit totaling \$97,448 on January 1, 2016.
- All 2015 Projected Replacements listed on Page C2 accomplished at a cost to Replacement Reserves less than \$4,160.
- Construction Cost Inflation of 4.50 percent in 2015.

The \$33,234 inflation adjusted funding in 2016 is a 4.91 percent increase over the non-inflation adjusted 2016 funding of \$31,678.

### **\$34,928** 2017 - INFLATION ADJUSTED FUNDING

A new analysis calculates 2017 funding based on three assumptions:

- Replacement Reserves on Deposit totaling \$130,682 on January 1, 2017.
- No Expenditures from Replacement Reserves in 2016.

- Construction Cost Inflation of 4.50 percent in 2016.

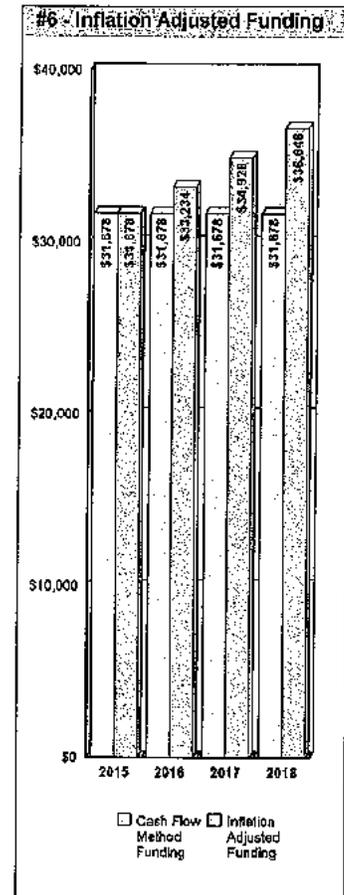
The \$34,928 inflation adjusted funding in 2017 is a 10.26 percent increase over the non-inflation adjusted 2017 funding of \$31,678.

### **\$36,646** 2018 - INFLATION ADJUSTED FUNDING

A new analysis calculates 2018 funding based on three assumptions:

- Replacement Reserves on Deposit totaling \$131,743 on January 1, 2018.
- All 2017 Projected Replacements listed on Page C2 accomplished at a cost to Replacement Reserves less than \$33,866.
- Construction Cost Inflation of 4.50 percent in 2017.

The \$36,646 inflation adjusted funding in 2018 is a 15.68 percent increase over the non-inflation adjusted funding of \$31,678.



## YEAR FIVE & BEYOND

The inflation adjusted funding calculations outlined above are not intended to be a substitute for periodic evaluation of common elements by an experienced Reserve Analyst. Industry Standards, lender requirements, and many state and local statutes require a Replacement Reserve Study be professionally updated every 3 to 5 years.

## INFLATION ADJUSTMENT

Prior to approving a budget based upon the 2016, 2017 and 2018 inflation adjusted funding calculations above, the 4.50 percent base rate of inflation used in our calculations should be compared to rates published by the Bureau of Labor Statistics. If there is a significant discrepancy (over 1 percent), contact Miller Dodson + Associates prior to using the Inflation Adjusted Funding.

## INTEREST ON RESERVES

The recommended funding calculations do not account for interest earned on Replacement Reserves.

In 2015, based on a 1.00 percent interest rate, we estimate the Association may earn \$837 on an average balance of \$83,689, \$1,141 on an average balance of \$114,065 in 2016, and \$1,312 on \$131,212 in 2017. The Association may elect to attribute 100 percent of the earned interest to Reserves, resulting in a reduction in the 2015 funding from \$31,678 to \$30,841 (a 2.64 percent reduction), \$33,234 to \$32,093 in 2016 (a 3.43 percent reduction), and \$34,928 to \$33,616 in 2017 (a 3.76 percent reduction).

## REPLACEMENT RESERVE STUDY - SUPPLEMENTAL COMMENTS

- Bennington on the Park has 42 units. The type of property is a condominium association.
- The Cash Flow Method calculates the minimum annual funding necessary to prevent Replacement Reserves from dropping below the Minimum Balance. Failure to fund at least the recommended levels may result in funding not being available for the Projected Replacements listed in the Replacement Reserve Inventory.
- The accuracy of the Replacement Reserve Analysis is dependent upon expenditures from Replacement Reserves being made ONLY for the 92 Projected Replacements specifically listed in the Replacement Reserve Inventory. The inclusion/exclusion of items from the Replacement Reserve Inventory is discussed on Page B1.
- The Manager reports there are 42 units, but the ground floor commercial tenant space is currently being converted into residential units and the total number of residential units after completion is unclear.

**Rules and Regulations**  
**Bennington on the Park Condominium Inc**

BENNINGTON ON THE PARK, A CONDOMINIUM

REVISED RESIDENTIAL UNIT RULES AND REGULATIONS

EFFECTIVE DATE: 2/19/2013

Having been authorized by the Association Bylaws [Paragraph 6.9(g)], the Board of Directors hereby adopts, and or modifies its rules and regulations upon its determination that the following are (a) reasonably necessary to protect the health, safety and welfare of the Unit Owners or (b) otherwise generally in the best interest of the Unit Owners. The Association through its officers shall provide copies of these Rules and Regulations to all Unit Owners. Future changes to Rules and Regulations shall be conspicuously posted prior to the time when the same shall become effective and copies thereof shall be furnished to each Unit Owner upon request.

These rules and regulations have been set forth to expand upon the detailed information found in the Condominium Declaration and Bylaws under which Bennington on the Park, A Condominium, operates. Unless otherwise defined herein, certain initially capitalized words and terms used herein shall have the same meanings defined in the Declaration. All residents are asked to support these rules and regulations in order that the community will be a more attractive and harmonious place to live.

1. Enforcement.

A. The Association, acting through its Board of Directors, shall have the power to (i) suspend a Unit Owner's right to use facilities or non-essential services offered by the Association for nonpayment of assessments or violation of these rules and regulations to the extent that access to the Unit through Common Elements is not precluded and 9II) access against any Unit Owner for any violation of the Condominium instruments or of the rules and regulations promulgated pursuant thereto for which such Unit Owner or his family members, tenants, guest or other invitees are responsible. Before any such suspension or fine may be imposed, the Unit Owner shall be given an opportunity to be heard and to be represented by counsel before the Board of Directors.

B. Notice of such hearing shall, at least fourteen (14) days in advance thereof, be hand delivered or mailed by registered or certified United States mail, return receipt requested, to such Unit Owner at the address or addresses required for notices of meetings pursuant to Section 55-79.75 of the Virginia Condominium Act.

C. The amount of any charges so assessed shall not exceed fifty dollars for a single offense, or ten dollars per diem for any offense of a continuing nature, and shall be treated as an assessment against such Unit Owner's condominium unit for the purposes of section 55-79.84 of the Virginia Condominium Act and the Condominium instruments. Failure of owner to respond to written notice will result in automatic fine.

D. In addition to any fine, all costs, together with interest, attorney's fees and other costs of collection, may be imposed as a special assessment against the Unit in which a violation of

these rules shall have occurred, as determined in the sole discretion of the Association's Board of Directors.

E. In addition to the rights and remedies provided by the Declaration, Bylaws and Virginia law, the Association shall have the right, but not the obligation to correct certain violations of the Rules and Regulations when the Unit Owner fails to comply. In the event of a violation of the Rules and Regulations, the Property Manager shall notify the Unit Owner by email to correct the violation or come to a resolution acceptable to the Board of Directors within fourteen (14) business days of the date of the notice. If the Unit Owner fails to correct the violation or fails to agree to a resolution acceptable to the Board of Directors within the fourteen (14) business days, the Board of Directors shall direct the Property Manager to send a certified letter to the Unit Owner giving the Unit Owner ten (10) business days to correct the violation. In the event of an emergency or if the violation of the Rules and Regulations creates a time-sensitive issue, the Board of Directors may reduce the time period for compliance and forego the additional time period provided by the certified letter. If the Unit Owner fails to correct the violation as required, the Association shall have the right, but not the obligation, to take action and correct the violation. Any charges incurred by the Association shall be charged to the Unit Owner.

## 2. Personal Property.

A. All tenants residing at the Bennington are required to have renters insurance. All unit owners are required to have personal property insurance. Failure to do so and provide evidence of insurance in a timely manner could result in a fine imposed by the Board of Directors. All personal property, such as lawn chairs, bicycles, tables, etc. must be kept inside. Residential Unit Owners may keep outdoor furniture, planters and other customary decorative items on Limited Common Element balconies, patio areas or porches, subject to such rules as shall be established by the Board of Directors.

B. Nothing may be hung or displayed, nor may signs, flags, flag poles, decorations, advertisements, awnings, temporary sun shades, patio umbrellas, canopies, shutters, symbols, antennae or satellite dishes or any other device or ornament be affixed to or placed upon the exterior walls, doors, patios, balconies, railings or roof without the prior written approval of the Board of Directors.

C. Water Beds, Exercise Machines, Etc.—Water bed are not allowed in the building. If a Unit Owner/Occupant has any exercise equipment, or similar items weighing more than the usual pieces of furniture in a home, that Owner shall be responsible for any damages to the structure caused by the unusual concentration of weight. Owners should use caution with the installation of exercise equipment as such equipment could exceed the weight restrictions and the allowed sound transmissions between units.

D. Shipping/moving containers (or Pods) shall not be left over 24 hours or remain in the reserved or shared parking spaces or carports.

E. Any unauthorized items on the Common areas are subject to removal by personnel authorized by the Board of Directors without notice being required.

## 3. Fire and Water Loss Prevention.

A. In accordance with the Fire Code, adopted by the General Assembly of the Commonwealth of Virginia, gas grills with greater than 11b propane tanks cannot be used on any of the patios or balconies in the Condominium building.

B. Charcoal grills, open flame grills or fires are not permitted.

C. Dryer duct vent lines must be vacuum cleaned at least every five years.

D. Unit Owners are responsible for maintaining all exterior air vents (range, dryer, bathrooms) pertaining to their unit, keeping them free of all lint and debris. (i.e. bird nest).

E. All washing machine hoses must be replaced every five years. Replacement for all units is scheduled for 2012.

F. Unit Owners are responsible for keeping their air conditioner serviced on a routine basis, checking specifically for water leaks and blocked condensation drainage pipes.

G. Unit Owners and tenants occupying units are responsible for periodically checking the plumbing, including but not limited to, under the cabinets in the kitchen and bathrooms, commodes, showers, tub, ice-making refrigerator, washing machine, and dish washing machine connections, to make sure there are no leaks developing, which could cause damage to the unit or to adjacent units. Repairs to leaking water lines or fixtures must be made IMMEDIATELY by the Unit Owner or property manager.

*H. Unit Owners are required to install Di-electric nipples or manufactured recommended nipples on top of the water heater upon replacement. Failure to do so can result in the Board re-piping the heater and adding the proper nipples at the cost to the Unit Owner.*

I. Unit owners or tenants who are gone from their unit for more than four consecutive days are required to shut off their main water valve until their return.

J. Unit owners are required to periodically check their water heaters for rust and corrosion and replace the water heater immediately upon finding any rust and corrosion on the exterior of the heater or upon discovering water sitting in the overflow pan. Failure to do so could result in the unit owner being responsible for damages to common areas and/or surrounding units.

#### 4. Unit Rentals.

The declarant has designated 12 Unit Owners or units substituted by declarant or assigns with rental rights by contract, unit # 204, 206, 201, 301, 402, 404, 303, 105, 311, 411, 305, and 205.

B. No Unit Owner, other than those granted lease rights in writing under Article VI, use restrictions 6.2 of the Condominium Declaration and the following provisions:

- a. No Unit Owner(s) shall lease their unit except for residential purposes. One family of 5 or a maximum of 3 unrelated adults may occupy a 3-bedroom unit. One family of 4 or a maximum of 3 unrelated adults may occupy a 2-bedroom unit. A 1-bedroom unit shall be limited to a maximum of 3 persons.

b. A Condominium Unit shall be deemed leased by a Unit Owner(s) for the purposes of these Rules and Regulations, whenever it is occupied by a third party, not a member of the Unit Owner's immediate family, for more than 10 consecutive days unless the Unit Owner is also occupying such Unit.

c. No Unit Owner(s) shall lease their Unit unless at least one of Lessees, who will actually occupy the Unit, is at least 18 years of age.

d. Owner/Lessor will be responsible for any damage caused by Lessee to Common Elements and Limited Common Elements.

C. . Any Unit Owner other than those units granted the right to rent their units on a permanent basis who wishes to obtain the right to rent must apply to the Board of Directors in writing. This right, if granted, remains with the current owner but **DOES NOT TRANSFER AT TIME OF SALE**. The new or prospective owner must apply to the Board of Directors for the right to rent. **The Board of Directors reserves the right under the Condominium documents to restrict the number of rentals in the Bennington to twelve units at any future time.** Current units granted the right to lease are units 105, 201, 204, 206, 205, 301, 303, 305, 311, 402, 404 and 411.

D. Any Unit Owner granted the right to rent has to follow all leasing requirements stated in the documents under Article VI, 6.2 of the Declaration and the revised Rules and Regulations dated February 15<sup>th</sup>, 2012 including the right of the Board of Directors to cancel the lease agreement or bring summary proceedings if any tenant fails to abide by the Rules and Regulations. In addition, the following leasing rules stated below have been adopted by the Board of Directors as of March 1<sup>st</sup>, 2008 and modified on November 30, 2009 and are also required of any unit granted the right to rent.

a. All leases must be on a standard lease form provided by or approved by the Board of Directors or our property management company.

b. Unless approved by the Board of Directors, all units leased must use a professional property management company, realtor or realty company approved by the Board of Directors. Unit Owners requesting leasing companies may use, but are not limited to, Berkeley Property Management or Williamsburg Property Management.

c. Unless approved by the Board of Directors, all rents charged must be at least 80% of fair market rent. The estimated market rents as of January 2010 are \$1,050 for a one bedroom, \$1,450 for a two bedroom and \$1,550 for a three bedroom.

E. The Unit Owner granted the right to rent has read the rules and requirements stated above and has agreed to follow these rules and requirements.

##### 5. Prohibited Items.

A. No gasoline or other hazardous substances may be stored by Unit Owner in any portion of a Residential Unit, or in any Common Element or Limited Common Element of the Condominium.

B. Laundry, rugs, swim suits, towels and other articles may not be hung from any exterior portions of the building at any time. Sweeping or shaking of mops or rugs or throwing dust or anything else from windows, doors, balconies, patios or porches is not permitted at any time.

C. No skateboarding, roller skates, scooters or in line skates may be used on the property.

6. Storage.

No Residential Unit Owner shall obstruct any of the Common Elements nor shall any Unit Owner store anything upon any of the Common Elements unless in areas specifically designated for storage by the Board of Directors. Any permitted storage areas must be kept reasonably clean and free from obnoxious odors. All tools, sporting equipment and other personal articles and equipment must be kept within the Unit or a permitted storage area. Any unauthorized items on the Common Elements are subject to removal by personnel authorized by the Board of Directors without notice being required.

7. Exterior Alterations.

A. Except as otherwise permitted in the Declaration or the Bylaws, no alterations or additions may be made to the exterior surface of the building or to any Common Elements by any Residential Unit Owner without the prior written approval of the Board. Any such addition, alteration or improvement shall also comply with any Development Guidelines (as defined in the Master Declaration) and if applicable New Town Design Review Board, if applicable, must approve such additions, alterations or improvements. No sign, advertisement, notice or other lettering, painting or decoration shall be exhibited, inscribed, painted or affixed on any part of the outside of a Residential Unit or in the windows of any Residential Unit without the prior written consent of the Association. All improvements, maintenance and landscaping of the general Common Elements shall be handled only by the Association.

B. All exterior locks must be maintained by the Unit Owner, however no lock can be changed or re-keyed without authorization by the Board of Directors.

C. All exterior doors and windows must be maintained and replaced by the Unit Owner with the same or similar windows and doors approved by the Board of Directors.

8. Windows and Window Coverings.

A. All window coverings, whether draperies, blinds (vertical or horizontal) or valances must be white, off-white or light beige on the *exterior side* so as to create a uniform appearance throughout the Condominium. Window coverings which are considered unacceptable include, but are not limited to, newspaper, cardboard, butcher paper, poster board, aluminum foil, plywood, sheets, and other paper covers. Temporary measures are acceptable during the initial days of occupancy; however, such measures must be removed and replaced with proper treatments within five (5) days of occupancy.

B. Sliding glass door screens which contain a white frame and transparent screen are allowed.

9. Animals.

A. No more than two household domestic pets, not bred or maintained for commercial purposes, may be kept in any one unit. Pets shall be limited to dogs, cats, tropical/freshwater fish or caged birds. Aquariums are limited to one aquarium of not more than 15 gallons. The full-grown combined weight of the pets shall not exceed eighty-five (85) pounds. All dogs and cats must be neutered. No "attack" or "defense" type of dogs, such as Pit Bulls, Rottweiler's, Doberman, German Shepherds, Akitas, Mastiffs and the like and any other pet breed that the Board of Directors may deem as a potential safety hazard to residents or Unit Owners, may be maintained in the units.

B. All animals, when on any portion of the Common Elements, shall be under a person's command, whether carried or leashed, and all animal waste must be immediately removed by the person accompanying the pet.

C. No pet shall be tethered or maintained outside on Common Elements or Limited Common Element porches, patios or balconies.

D. All pets shall be registered, if required, by the Board of Directors and inoculated as required by law. The Board of Directors may establish reasonable fees for registration of pets not to exceed the additional costs incurred by the Association resulting from the presence of such pets. Visiting, temporary or part time residents with pets are subject to all of the pet rules and regulations.

E. Pet owners may be fined for violation of these policies at the rate of up \$50.00 for each offense. Any pet causing or creating a nuisance or unreasonable disturbance or noise in the opinion of the Board of Directors, the pet may be permanently removed from the property at the discretion of the Board of Directors. No such pets shall be removed from the property by action of the Board of Directors pursuant to this section unless the owner of such pet shall be given 14 days notice of a hearing before the Board at which time the pet owner shall be allowed to speak to the issue.

F. The pet owner will be responsible and will pay for any and all damages or destruction caused to the Condominium, including, without limitation, the repair of damaged items to their former condition and/or replacement where necessary as determined in the sole discretion of the Board of Directors. All of such costs, together with interest, attorney's fees and other costs of collection, may be imposed as a special assessment against the unit in which the pet or pet owner resides, as determined in the sole discretion of the Board of Directors.

G. Pets designated as service animals to accompany a resident with a verifiable disability for the specific purposes of aiding that person in accordance with the American with Disabilities Act (ADA) guidelines, the Federal Fair Housing Act or similar laws, ordinances or regulations are excepted from these rules.

10. Parking/Vehicles.

No boats, trailers, motor homes, trucks (larger than a ¾ ton pickup) travel trailers, or any vehicle with commercial advertising may be parked on any parking area, including any Attributed Parking Space of any Unit Owner, including carports for more than 24 consecutive hours and in no event shall any such boat, trailer or vehicle block normal ingress and egress of any resident or from any parking area. Commercial moving vans, when conducting contract business, and commercial trucks when in the area to perform service or repair work are an authorized exception.

Inoperable vehicles (with flat tires, expired license tags, etc.), or vehicles which cannot be identified as belonging to a resident or a resident's invitee, which are parked in any Common Elements or Limited Common Elements or carports for more than 24 consecutive hours may be towed off the premises at the vehicle owner's expense. No repair work is permitted on vehicles in Limited Common Elements or Common Elements except for short-term emergency work (flat tire, battery charge, etc.).

11. Trash Collection.

A. All rubbish, trash and garbage shall be deposited in receptacles specifically designed for same and shall be removed regularly from the Property and not allowed to accumulate thereon. No trash of any kind is to be left on the floor in front of the trash shoot or anywhere in the building. All trash shall be double-bagged to prevent spillage in corridors. *Repeated violations by owners may result in a fine imposed by the Board of Directors or repeated violations by a tenant may result in the lease being cancelled by the Board of Directors.*

B. *No cardboard boxes or bulk items of any kind are to be placed into the trash chute. These items are to be carried outside to the dumpster. Repeated violations by owners may result in a fine imposed by the Board of Directors or repeated violations by a tenant may result in the lease being cancelled by the Board of Directors.*

12. Obnoxious Activity.

A. No obnoxious or offensive activity shall be carried on upon any part of the Condominium nor shall anything be done thereon which may be or may become, an annoyance or nuisance to the Unit Owners or which shall in any way interfere with the quiet enjoyment of any Unit Owner of his Condominium unit or which shall in any way increase the rate of insurance carried by the Association for the benefit of the Unit Owners.

B. Consideration for neighbors is especially important in a community such as the Condominium. Unnecessary noises and loud noises from televisions, stereo equipment, musical instruments, pets, or other disturbances must be avoided, especially between the hours of 11:00 PM and 7:00 AM.

13. Solicitation and Garage Sales.

Solicitation by commercial enterprises is not authorized within the community. Garage sales and tag sales are specifically prohibited, unless approved by the Board of Directors.

14. Utilities & Access Codes

A. Residents are responsible for maintenance and payment of all separately metered and sub-metered utilities, including, if applicable, water and sewer, gas, electric, cable television, telephone, and for calling to initiate service on the date of possession. Utilities serving Common Elements, such as common area lighting, are paid for by the Association.

B. Property manager is to keep a list of access codes for each unit and upon move in of a resident, remove the old codes, and at least once a year ensure the directory is up to date and old codes have been removed.

15. Condominium Sales.

Any owner who sells his or her condominium is responsible for:

A. Notifying the Association and requesting a Certificate of Resale per the requirements of the Virginia Condominium Act.

B. Making certain all Condominium dues are current. The property manager is required to add a copy of the initial capital payment clause of Article 6, operation of the condominium, to the resale certification for all purchasers.

C. Making certain new owners receive the Condominium Declaration, Bylaws and these Rules and Regulations.

16. Default in Payment of Assessments.

If any owner defaults in the payment of any Common Expenses, as such terms are defined in the Declaration of Bennington on the Park, A Condominium, or other sum against such Unit Owner or a unit and the default continues for a period in excess of ten (10) days, such Unit Owner shall pay interest on the amounts due at the rate of twelve percent (12%) from the due date thereof until paid. In addition, the Common Expenses or other sums due shall be subject to a late fee equal to five percent (5%) of the amount past if not paid within ten (10) days after the due date thereof. Upon any such default, the entire annual assessment attributable to the defaulting Unit Owner shall immediately become due and payable and such defaulting Unit Owner shall further be responsible for all costs of collection, including reasonable attorney's fees.

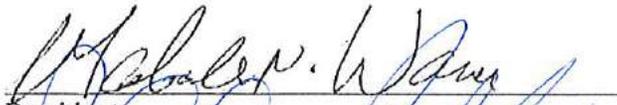
17. Amendments.

These Rules and Regulations may be changed from time to time and at any time by a majority vote of the Board of Directors.

18. Conflict.

Should these Rules and Regulations conflict with those of the Master Association, the Master Association's Rules and Regulations will govern.

Adopted by the Board of Directors of the Bennington on the Park Condominium Unit  
Owner's Association this February 19, 2013.

  
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President

  
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Attest: Secretary

UNIT NUMBER	PARKING SPACE
101	12
102	11
103	10
104	9
105	8
106	7
107	4
201	6
202	5
203	30 Handicap space
204	3
205	2
206	1
207	13
208	14
209	34
210	16
211	17
301	18
302	19
303	20
304	21
305	22
306	23
307	24
308	25
309	26
310	27
311	28

401	29
402	31
403	32
404	33
405	15
406	35
407	36
408	37
409	38
410	39
411	40

**UPDATED AS OF 02/09/16**