

**BAY CREEK AT CAPE CHARLES
COMMUNITY ASSOCIATION, INC.**

FINANCIAL STATEMENTS

DECEMBER 31, 2011

TABLE OF CONTENTS

INDEPENDENT AUDITORS' REPORT	1
BALANCE SHEET	2
STATEMENT OF REVENUES AND EXPENSES	3
STATEMENT OF CHANGES IN MEMBERS' EQUITY	4
STATEMENT OF CASH FLOWS	5
NOTES TO FINANCIAL STATEMENTS	6-10
SUPPLEMENTARY INFORMATION:	
INDEPENDENT AUDITORS' REPORT ON SUPPLEMENTARY INFORMATION	11
SCHEDULE OF FUTURE MAJOR REPAIRS AND REPLACEMENTS	12-13



INDEPENDENT AUDITORS' REPORT

The Board of Directors
Bay Creek at Cape Charles Community Association, Inc.

We have audited the accompanying balance sheet of Bay Creek at Cape Charles Community Association, Inc. as of December 31, 2011, and the related statements of revenues and expenses, changes in members' equity, and of cash flows for the year then ended. These financial statements are the responsibility of the Association's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Bay Creek at Cape Charles Community Association, Inc. as of December 31, 2011, and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

September 24, 2012

Desroches & Company

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

BALANCE SHEET

December 31, 2011

ASSETS

Cash and cash equivalents:	
Operating	\$ 84,779
For future major repairs and replacements	100,075
	<hr/>
Total cash and cash equivalents	184,854
Assessments and fees receivable - members, less allowance for uncollectible assessments of \$112,450	143,451
Prepaid insurance	7,416
Property and equipment, net of accumulated depreciation of \$3,924	5,836
	<hr/>
Total assets	\$ 341,557
	<hr/> <hr/>

LIABILITIES AND MEMBERS' EQUITY

Accounts payable	\$ 75,230
Prepaid assessments	100,677
Note payable - TowneBank	446,308
	<hr/>
Total liabilities	622,215
	<hr/>
Members' equity (deficit):	
Undesignated	(380,733)
Designated for future major repairs and replacements	100,075
	<hr/>
Total members' equity (deficit)	(280,658)
	<hr/>
Total liabilities and members' equity	\$ 341,557
	<hr/> <hr/>

See notes to financial statements
and independent auditors' report.

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

STATEMENT OF REVENUES AND EXPENSES

For the year ended December 31, 2011

	<u>Operating Undesignated</u>	<u>Designated for Replacements</u>	<u>Total</u>
Revenues:			
Member assessments	\$ 1,043,934	\$ 33,000	\$ 1,076,934
Lawn maintenance fees	71,120	0	71,120
Late and legal fees	8,097	0	8,097
Working capital contributions	3,000	0	3,000
Interest income	0	356	356
Other income	87	0	87
	<hr/>	<hr/>	<hr/>
Total revenues	1,126,238	33,356	1,159,594
	<hr/>	<hr/>	<hr/>
Expenses:			
Accounting	7,430	0	7,430
Bad debts	81,264	0	81,264
Depreciation	2,332	0	2,332
Electric	46,376	0	46,376
General repairs and maintenance	85,550	39,677	125,227
Grounds improvements	16,495	0	16,495
Insurance	7,506	0	7,506
Interest expense	33,650	0	33,650
Irrigation system maintenance	22,326	0	22,326
Lake maintenance	43,085	0	43,085
Lawn maintenance, net	311,308	0	311,308
Lawn maintenance - New Quarter and Bayside	71,480	0	71,480
Legal	12,668	0	12,668
Management fee	79,662	0	79,662
Miscellaneous	4,816	0	4,816
Pool	36,214	0	36,214
Postage and printing	25,759	0	25,759
Security	184,105	0	184,105
Telephone	4,524	0	4,524
Water and sewer	4,211	0	4,211
	<hr/>	<hr/>	<hr/>
Total expenses	1,080,761	39,677	1,120,438
	<hr/>	<hr/>	<hr/>
Excess (deficit) revenues over expenses	<u>\$ 45,477</u>	<u>\$ (6,321)</u>	<u>\$ 39,156</u>

See notes to financial statements
and independent auditors' report.

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

STATEMENT OF CHANGES IN MEMBERS' EQUITY

For the year ended December 31, 2011

	<u>Operating Undesignated</u>	<u>Designated for Replacements</u>	<u>Total</u>
Members' equity (deficit) - beginning of year	\$ (458,114)	\$ 138,300	\$ (319,814)
Excess (deficit) revenues over expenses	45,477	(6,321)	39,156
Transfer to undesignated equity	<u>31,904</u>	<u>(31,904)</u>	<u>0</u>
Members' equity (deficit) - end of year	<u>\$ (380,733)</u>	<u>\$ 100,075</u>	<u>\$ (280,658)</u>

See notes to financial statements
and independent auditors' report.

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

STATEMENT OF CASH FLOWS

For the year ended December 31, 2011

CASH FLOWS FROM OPERATING ACTIVITIES:	
Excess revenues over expenses	\$ 39,156
Adjustments to reconcile excess revenues over expenses to net cash provided by operating activities:	
Bad debts	81,264
Depreciation	2,332
Changes in assets and liabilities:	
Increase in assessments and fees receivable - members	(79,787)
Increase in prepaid insurance	(1,304)
Increase in accounts payable	3,411
Increase in prepaid assessments	52,303
	<hr/>
Net cash provided by operating activities	97,375
CASH FLOWS FROM INVESTING ACTIVITIES:	
Purchases of property and equipment	0
CASH FLOWS FROM FINANCING ACTIVITIES:	
Principal payments on notes payable	(83,825)
	<hr/>
Increase in cash and cash equivalents	13,550
Cash and cash equivalents at beginning of year	171,304
	<hr/>
Cash and cash equivalents at end of year	<u><u>\$ 184,854</u></u>

SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION

Cash paid during the year for income taxes	<u><u>\$ 0</u></u>
Cash paid during the year for interest	<u><u>\$ 33,650</u></u>

See notes to financial statements
and independent auditors' report.

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

NOTES TO FINANCIAL STATEMENTS

December 31, 2011

[1] **NATURE OF BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

Nature of Business Bay Creek at Cape Charles Community Association, Inc. (“the Association”) is a management association formed as a corporation and organized for the specific purpose of maintaining, preserving and architecturally controlling the individual properties and common areas for the benefit of its members. The Association is located in Cape Charles, Virginia and consists of 873 recorded homes or lots at December 31, 2011.

Method of Accounting The Association follows the accrual method of accounting in which revenues are recognized when earned and expenses are recognized when incurred.

Member Assessments Association members are subject to assessments to provide funds for the Association's operating expenses and major repairs and replacements. Members in the New Quarter Village and Bayside Village are subject to an additional lawn maintenance assessment. Assessments commence for each lot on the first day of the month following the month in which the lot is made subject to the Association's Declaration.

During the “class “B” control period,” as defined in the Association's governing documents, the Association's Declarant may satisfy its obligation for assessments on lots which it owns either by paying such assessments in the same manner as any other owner or by paying the difference between the amount of assessments levied on all other lots subject to assessment and the amount of actual expenditures by the Association during the fiscal year. For 2011, the Declarant elected to pay assessments on recorded but unsold lots in the same manner as other owners. Unless the Declarant otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, the Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. Regardless of the Declarant's election, the Declarant's obligations may be satisfied in the form of cash or by “in kind” contributions of services or materials, or by a combination of these. After termination of the “class “B” control period,” the Declarant shall pay assessments on its unsold lots in the same manner as any other owner.

Assessments receivable at the balance sheet date represent fees due from owners and/or builders. The Association's policy is to retain legal counsel and place liens on the properties of owners whose assessments are several months delinquent. Member assessments in the statement of revenues and expenses have been allocated between undesignated (operating) and designated equity (replacements) based upon the Association's 2011 budget reserve requirements. The Association retains excess operating funds at the end of the year, if any, for use in future periods.

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

NOTES TO FINANCIAL STATEMENTS

December 31, 2011

Allowance for Uncollectible Assessments The Association's policy is to record an allowance for uncollectible assessments for those accounts which the owner has filed Chapter 7 bankruptcy, the property has been foreclosed, or accounts which are substantially delinquent that management feels are doubtful of collection.

Recognition of Assets During the organization of the Association, certain real property was received from the Declarant. The property contributed included land and related improvements. This property has not been recognized on the Association's financial statements because the Association cannot dispose of the property at the discretion of its Board of Directors, for cash. In addition, the property is not used by the Association to generate significant cash flow from members or nonmembers on the basis of usage. However, the Association's purchases of personal property are recognized as assets at the Association's cost.

Depreciation Depreciation is computed using the straight-line method over the estimated useful life of the asset.

Cash and Cash Equivalents The Association includes all cash accounts, money market accounts, and certificates of deposit with an original maturity of three months or less or that do not include a substantial penalty for early withdrawal, to be cash and cash equivalents.

Estimates The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Accordingly, actual results could differ from those estimates. In addition, it is reasonably possible that the estimate for the allowance for uncollectible assessments may materially change within the next year, depending upon the success of the Association's managing agent and attorney in collecting past due balances.

[2] INCOME TAXES

The Association has elected to be tax-exempt with respect to its exempt function income under Internal Revenue Code Section 528. Since the Association's 2011 non-exempt function income, less applicable deductions, was less than zero, the Association was not liable for income tax and, accordingly, no provision for income taxes has been made for the year ended December 31, 2011.

As of December 31, 2011, the tax years that remain subject to examination by taxing authorities begin with 2008. The Association believes it has appropriate support for any tax positions taken, and as such, does not have any uncertain tax positions that are material to the financial statements.

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

NOTES TO FINANCIAL STATEMENTS

December 31, 2011

[3] **FUTURE MAJOR REPAIRS AND REPLACEMENTS**

The Association's governing documents require that funds be accumulated for future major repairs and replacements. Accumulated funds are generally held in a separate savings account and are not available for expenditures for normal operations.

During 2009, the Board of Directors hired an outside professional firm to conduct a study to estimate the remaining useful lives and the replacement costs of the components of common property. The table included in the unaudited supplementary information of future major repairs and replacements is based on this study.

The Association is budgeting for the accumulation of funds for future major repairs and replacements through current periodic assessments. The 2012 budgeted amount of \$143,320 varies from the \$266,733 annual contribution recommended in the professional's study. The effect of this funding policy on future assessments has not been determined at this time.

In the future, when replacements are necessary, the Association's actual replacement expenditures may vary from the future funded reserve account balance, and the variations may be material. Therefore, amounts to be accumulated in the replacements fund may not be sufficient to meet all future needs for major repairs and replacements. If additional funds are needed, the Association has the right, under certain circumstances, to increase regular assessments, pass special assessments, or delay major repairs and replacements until funds are available.

During 2011, the actual net amount of cash transferred to the reserve for future major repairs and replacements was less than the amount budgeted. The net unfunded amount totaled \$31,904 and is shown as a transfer to undesignated equity in the accompanying statement of changes in members' equity.

[4] **NOTES PAYABLE**

During 2005, the Association contracted with Bay Creek Marina and Resort (Paul Galloway, Managing Partner) to construct a "breakwaters" for the beach and perform related beach replenishment west of Sunset Boulevard in Cape Charles. The cost of the project totaled \$1,500,000. Of this amount, \$423,500 was invoiced to homeowners for work associated with their beach front property. The remaining \$1,076,500 was the responsibility of the Association. The expense for the breakwaters project totaled \$269,125 and \$807,375 during 2006 and 2005, respectively.

During 2006, the Association signed a note payable to Baymark Creek, LLC for the \$1,076,500. The note required annual installments of not less than \$129,000 including interest at 7.5% per annum.

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

NOTES TO FINANCIAL STATEMENTS

December 31, 2011

During 2011, the Association obtained a new loan from TowneBank and used the proceeds to pay off the note payable to the Declarant. The note payable to TowneBank, dated October 6, 2011 in the amount of \$462,178, requires 51 monthly payments of \$10,363 including interest at 6.25% and extends to January 2016. The loan is secured by a security interest in the Association's right to collect any and all present outstanding assessments, future assessments and to assess and collect any and all further community association fees.

Scheduled principal payments under the note agreement are as follows:

<u>Year Ending December 31,</u>	
2012	\$ 99,275
2013	105,661
2014	112,457
2015	119,691
2016	<u>9,224</u>
	<u>\$ 446,308</u>

[5] DECLARANT ASSESSMENTS

The Association's legal counsel has advised the Board of Directors that the Declarant's obligation for assessments may be satisfied in the form of cash or by prior "in kind contributions of services of materials." The following improvements made to the Association's common property by the Declarant qualify as "in kind contributions of services or materials" to the Association:

Bay Creek General	
Gate House Complex (Main Entrance)	\$ 500,000
Entrance Feature (Bronze Sculpture)	290,000
Community Pool Complex	946,000
Community Tennis Complex	40,000
Plantation Pointe	
Gazebo and Arches	125,000
Heron Pointe	
Waterfall and Features	175,000
Marina Village East	
Gate House	102,000
Mail Shelter	10,000
Kings Bay/Colony	
Gate House	30,000
Electric Entry Gate	55,000
Mail Shelter	<u>10,000</u>

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

NOTES TO FINANCIAL STATEMENTS

December 31, 2011

\$ 2,283,000

As a result, the Declarant's obligations for assessments totaling approximately \$244,000 for 2011 have been satisfied in full by the above contributions. As of December 31, 2011, cumulative assessment obligations satisfied by "in kind contributions" totaled approximately \$1,067,000. The Declarant's assessments and related offset for "in kind contributions" are not reflected on the accompanying statement of revenues and expenses.

[6] **RELATED PARTY TRANSACTIONS**

During 2011, related parties to the Declarant, Bay Creek Landscaping, Baymark Construction, Bay Creek Marina and Resort, Bay Creek, LLC and Bay Creek Communications, provided various contracted services to the Association. During 2011, expenses reported at the gross contracted or invoiced amount with related parties were as follows:

General repairs and maintenance	\$ 55,925
Grounds improvements	22,088
Irrigation system maintenance	20,739
Lake maintenance	43,085
Lawn maintenance	330,208
Lawn maintenance - New Quarter and Bayside	71,480
Miscellaneous	876
Pool	34,976
Security	<u>184,105</u>
	<u>\$ 763,482</u>

[7] **SUBSEQUENT EVENTS**

Subsequent events have been evaluated through the date that the financial statements were available to be issued, September 24, 2012.

SUPPLEMENTARY INFORMATION



**INDEPENDENT AUDITORS' REPORT
ON SUPPLEMENTARY INFORMATION**

The Board of Directors
Bay Creek at Cape Charles Community Association, Inc.

Accounting principles generally accepted in the United States of America require that the schedule of future major repairs and replacements be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Financial Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America. Such procedures consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

September 24, 2012

Desroches & Company

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

SCHEDULE OF FUTURE MAJOR REPAIRS AND REPLACEMENTS

December 31, 2011

Unaudited

During 2009, Miller Dodson Associates conducted a study to estimate the remaining useful lives and the replacement costs of the components of common property. The methods used to determine replacement costs were based on estimates of current costs as of the date of the study using industry standard estimating manuals and the professional's experience with similar replacement projects. The study does not factor into account the interest on the reserves on deposit, nor does it account for inflation over the period of the study.

The following table is a summary of information contained in the professional study concerning the components of common property. The data contained below is for informational purposes only and has not been subjected to auditing procedures. All data is as of the effective date of the study, October 30, 2009.

<u>Component</u>	<u>Estimated Remaining Useful Life</u>	<u>Current Replacement Cost</u>
Bridges - Bay Creek Village	31 years	\$ 2,423,293
Bridges - Marina East Village	36 years	1,445,307
Concrete sidewalk	7-64 years	394,690
Concrete curb and gutter	11-17 years	94,926
Asphalt pavement, overlay	11-24 years	1,600,916
Asphalt pavement, sealcoat	0-9 years	171,528
Reset pavers, sand	8 years	28,588
Main entrance - Bay Creek Village	0-35 years	87,784
48" metal fencing	17-23 years	520,104
Entrances - Marina East Village	8-28 years	44,284
Gatehouse - main	1-21 years	36,363
Pavilion 1 - Marina Village East	11-31 years	20,105
Pavilion 2 - Marina Village East	11-31 years	13,882
Gatehouse - Marina Village East	0-31 years	19,740
Gatehouse - Colony	11-31 years	19,427
Gatehouse pergolas - Colony	16-31 years	15,307
Mail shelter - Colony	11-31 years	16,034
Gazebo - Plantation Pointe	4-28 years	46,790
Pool building	7-45 years	45,780
Water feature - Heron Point	4-14 years	30,000
Main entrance feature - Bay Creek	5-10 years	3,400
Beach access - Colony	25 years	17,524
Signage letters - Bay Creek and Plantation Pointe	21-25 years	8,690
Traffic and information signs	5 years	3,000
Stone plaque signs - Bay Creek and Villages	4 years	8,580
Site lighting	8-26 years	145,456

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

SCHEDULE OF FUTURE MAJOR REPAIRS AND REPLACEMENTS

December 31, 2011

Unaudited

<u>Component</u>	<u>Estimated Remaining Useful Life</u>	<u>Current Replacement Cost</u>
Swimming pool, structure	55 years	268,800
Swimming pool, whitecoat and waterline tile	5-15 years	64,560
Wading pool structure	55 years	13,608
Wading pool, whitecoat and waterline tile	5-15 years	6,759
Wading pool pump	3 years	1,200
Swimming pool, cover	3 years	12,870
Swimming pool filter	5 years	7,200
Swimming pool, concrete deck	10-34 years	129,205
Pool deck coating	7 years	15,621
Pool furniture	1 year	1,200
Tennis court, color coat	2 years	10,000
Tennis court - resurface/overlay, post and footings	15 years	41,200
Tennis court, net	2 years	1,400
Tennis court, fence	15 years	11,424
		<u>\$ 7,846,545</u>

The Association's 2012 minimum recommended annual reserve contribution as stated in the reserve study totals \$266,733.

REPLACEMENT RESERVE REPORT FY 2010

BAY CREEK PROPERTY OWNERS ASSOCIATION



REPLACEMENT RESERVE REPORT FY 2010
BAY CREEK PROPERTY OWNERS ASSOCIATION

Community Management by:

Community Group, Inc.

Mr. Brett Campbell

4534 Bonney Road
Virginia Beach, VA 23462
757-499-2200

Consultant:



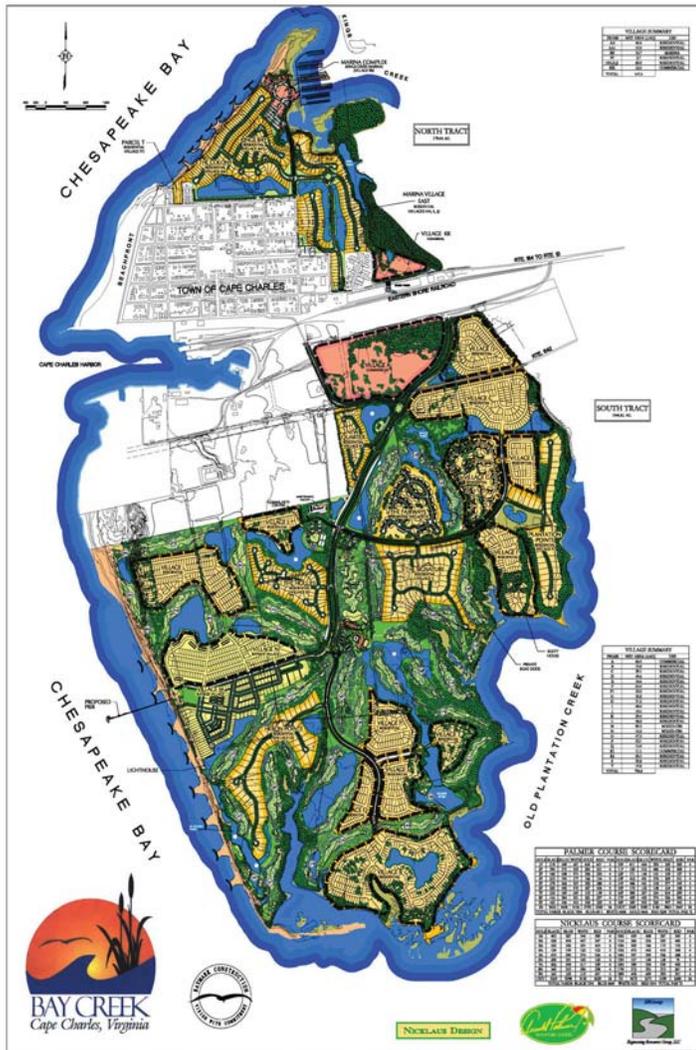
929 West Street, Suite 310
Annapolis, MD 21401
Tel: 410.268.0479
Fax: 410.268.8483
www.mdareserves.com



Replacement Reserve Report

BAY CREEK PROPERTY OWNERS ASSOCIATION

Cape Charles, Virginia



Section A

Replacement Reserve Analysis

- Executive Summary - A1
- Reserve Status & Funding Plan - A1
- General Information - A2
- Cash Flow Method - A4
- Component Method - A6
- Current Association Funding - A8
- Reserve Analysis – Comments - A9

Section B

Replacement Reserve Inventory

- Replacement Reserve Inventory
- General information - B1
- Replacement Reserve Inventory
- Comments - B2
- Schedule of Projected Replacements and Exclusions - B3

Section C

Projected Annual Replacements

- Projected Annual Replacements
- General Information - C1
- Reserve Analysis and Inventory Policies, Procedures, and Administration - C2
- Calendar of Projected Annual Replacements - C2

Section D

Condition Assessment

Section E

Attachments

Appendix

Scope. Bay Creek is a Property Owners Association located in Cape Charles, on the Eastern Shore of Virginia. Bay Creek was constructed beginning in 2001 and is comprised of multiple “villages” and site amenities. The community will consist of approximately 2,300 single-family detached homes at final build out. The community is divided into two main areas for purposes of the study inventory; the Bay Creek Villages, The Colony Village and the Marina Village East. The survey examined the common elements of the property, including:

- Asphalt drives and parking.
- Concrete sidewalks, and curb & gutter.
- Wooden beach access ramps.
- Paver walkways.
- Site lighting, mail box shelters and signage.
- Irrigation and aerators.
- Concrete cart paths
- Gate houses and Pavilions.
- Pergolas, arbors and gazebos.
- Bridges.
- Brick site walls and columns, and metal railings.
- Swimming pool and associated cabana building.
- Tennis courts.
- Riprap breakwaters.

Excluded items include:

- The golf course and club house
- Maintenance Building
- The water & sewer utilities
- Irrigation and ponds for the golf course and Bayside Village
- Replica lighthouse at the Bayside Village
- Marina
- Fairways and Marina condominiums
- Fig Street right of way

Level of Service. This study has been performed as a Level I, Full Service Reserve Study as defined under the National Reserve Study Standards that have been adopted by the Community Associations Institute. As such, a complete component inventory was established based on information regarding commonly-owned components provided by the community manager and upon quantities derived from field measurement and/or quantity takeoffs from to-scale engineering drawings. The condition of all commonly-owned components was ascertained from a site visit and the visual inspection of each component by the Analyst. The life expectancy and the value of the components are provided based in part on these observations. The fund status and funding plan have been derived from analysis of this data.

Purpose. The purpose of this Replacement Reserve Study is to provide Bay Creek Property Owners Association (hereinafter called the Association) with an inventory of the common community facilities and infrastructure components that require periodic replacement. The Study includes a general view of the condition of these items and an effective financial plan to fund projected periodic replacements.

- **Inventory of Items Owned by the Association.** Section B Replacement Reserve Inventory lists the Projected Replacements of the commonly owned items that require periodic replacement using funding from Replacement Reserves. The Replacement Reserve Inventory also provides information about excluded items, which are items whose replacements are not scheduled for funding from Replacement Reserves.

- **Condition of Items Owned by the Association.** Section B Replacement Reserve Inventory includes our estimates of the normal economic life and the remaining economic life for the projected replacements. Section C Calendar of Projected Annual Replacements provides a year-by-year listing of the projected replacements. Section D Condition Assessment provides additional detail for items that are unique or deserving of attention because of their condition or the manner in which they have been treated in this Study.
- **Financial Plan.** The Association has a fiduciary responsibility to protect the appearance, value, and safety of the property and it is therefore essential the Association have a financial plan that provides funding for the projected replacements. In conformance with American Institute of Certified Public Accountant guidelines, Section A Replacement Reserve Analysis evaluates the current funding of Replacement Reserves as reported by the Association and recommends annual funding of Replacement Reserves by two generally accepted accounting methods; the Cash Flow Method and the Component Method. Section A Replacement Reserve Analysis includes graphic and tabular presentations of these methods and current Association funding. An Executive Summary of these calculations is provided on Page A1.

Basis. The data contained in this Replacement Reserve Study is based upon the following:

- The Request for Proposal submitted and executed by the Association.
- Our visual evaluation and measurements from October 17- 30, 2009. Miller - Dodson Associates has visually inspected the common elements of the property in order to ascertain the remaining useful life and the replacement costs of these components.

Engineering Drawings. The developer provided the following sets of drawings for site improvements that were used to quantify specific portions of the common elements inventory. The drawings are not true "As-Builts" although some as-built information is annotated on selected sheets. Significant portions of certain site improvements shown on the drawings are not constructed.

- Construction Plans for Phase I, dated December 23, 1999 by The TAF Group, 100 Landmark Square, Virginia Beach, VA 23452
- Construction Plans for Phase K (Hollies Village), dated February 11, 2000 by The TAF Group, 100 Landmark Square, Virginia Beach, VA 23452
- Construction Plans for Phase B (New Quarter Village), dated June 30, 2000 by The TAF Group, 100 Landmark Square, Virginia Beach, VA 23452
- Construction Plans for Heron Pointe, dated September, 2002 by Langley & McDonald, Inc., 309 Lynnhaven Parkway, Virginia Beach, VA 23452
- Construction Plans for The Colony, dated August 9, 2002 by Langley & McDonald, Inc., 309 Lynnhaven Parkway, Virginia Beach, VA 23452
- Construction Plan if the Community Center, dated 3/7/2003 by Langley & McDonald, Inc., 309 Lynnhaven Parkway, Virginia Beach, VA 23452
- Construction Plans for Plantation Pointe, dated August 7, 2003 by Langley & McDonald, Inc., 309 Lynnhaven Parkway, Virginia Beach, VA 23452
- Construction Plans for Marina Village East, dated April 1, 2005 by Langley & McDonald, Inc., 309 Lynnhaven Parkway, Virginia Beach, VA 23452

We recommend the Association assemble a library of site and building plans of the entire community. Reproducible drawings should be stored and kept in a secure fireproof location. The Association will find these drawings to be a valuable resource in planning and executing future projects.

Acknowledgement. Miller - Dodson Associates would like to acknowledge the assistance and input of Mr. Brett Campbell, the property manager, provided very helpful insight into the current operations at the property.

Analyst's Credentials. Mr. Philip Pointon holds a Bachelors Degree in Architecture from Virginia Polytechnic Institute and State University and a Masters Degree from Old Dominion University in Engineering Management as well as coursework at U.S. Army Management Staff College. Mr. Pointon has been a Registered Professional Architect in the State of Virginia and Hawaii since 1990, and has served in many facilities in an architectural function since 1987. He is currently a Reserve Specialist (RS) for Miller - Dodson Associates, Inc.

Respectfully submitted,
MILLER - DODSON ASSOCIATES, INC.

Philip Pointon
Reserve Specialist

EXECUTIVE SUMMARY

The Bay Creek HOA Replacement Reserve Inventory identifies 202 Projected Replacements for funding from Replacement Reserves, with an estimated one-time replacement cost of \$7,846,541.

The Replacement Reserve Analysis calculates recommended funding of Replacement Reserves by the two generally accepted methods, the Cash Flow Method and the Component Method. The Analysis also evaluates current funding of Replacement Reserves, as reported by the Association. The calculations and evaluation are summarized below:

\$702,072 CASH FLOW METHOD MINIMUM ANNUAL FUNDING OF REPLACEMENT RESERVES IN THE STUDY YEAR, 2010.

\$76.98 Per unit (average), minimum monthly funding of Replacement Reserves

The Cash Flow Method (CFM) calculates Minimum Annual Funding of Replacement Reserves that will fund Projected Replacements identified in the Replacement Reserve Inventory from a common pool of Replacement Reserves and prevent Replacement Reserves from dropping below a Minimum Recommended Balance.

CFM - Minimum Annual Funding remains the same between peaks in cumulative expenditures called Peak Years.

The first Peak Year occurs in 2010 and the CFM - Minimum Annual Funding of Replacement Reserves in 2011 declines to \$266,733 (\$29.25 per unit, per month), after the completion of \$82,182 of replacements in the Study Year, 2010.

After 2010 the CFM - Minimum Annual Funding remains constant for the remainder of the Study Period.

\$475,454 COMPONENT METHOD RECOMMENDED ANNUAL FUNDING OF REPLACEMENT RESERVES IN THE STUDY YEAR, 2010.

\$52.13 Per unit (average), recommended monthly funding of Replacement Reserves

The Component Method is a time tested and very conservative funding model developed by HUD in the early 1980's.

The Component Method treats each projected replacement in the Replacement Reserve Inventory as a separate account. Deposits are made to each individual account, where funds are held for exclusive use by that item.

Based on this funding model, the Association has a Current Funding Objective of \$1,532,613.

The Association reports having \$-227,563 on deposit, which is -14.8% funded.

\$31,050 CURRENT ANNUAL FUNDING OF REPLACEMENT RESERVES (as reported by the Association).

\$3.40 Per unit (average), reported current monthly funding of Replacement Reserves

The evaluation of Current Funding, as reported by the Association, has calculated that if the Association continues to fund Replacement Reserves at the current level, there will NOT be adequate funds for Projected Replacements in 30 years of the 30-year Study Period, and a maximum shortfall of \$-3,387,846 occurs in 2038.

Pages A2 and A3 explain the Study Year, Study Period, Adjustments (interest & inflation), Beginning Balance, and Projected Replacements. Pages A4 to A9 explain in more detail the calculations associated with the Cash Flow Method, Component Method, and Current Funding.

REPLACEMENT RESERVE STATUS AND FUNDING PLAN

Current funding of Replacement Reserves is inadequate to fund Projected Replacements.

We recommend the Association adopt a Replacement Reserve Funding Plan based on the Cash Flow Method or the Component Method, to ensure that adequate funding is available throughout the 30-Year Study Period for the \$4,089,807 of Projected Replacements listed in the Bay Creek HOA Replacement Reserve Inventory.

The Funding Plan should be professionally evaluated every three to five years or after completion of each major replacement project. The Board of Directors has a fiduciary responsibility to review the Funding Plan annually and should consider annual increases in Replacement Reserve funding at least equal to the Consumer Price Index.

PLEASE NOTE: For inventory items with a Remaining Economic Life greater than 40 years, the replacement projections fall outside this study's limits and are not included in the annual calculations. However, tracking these items over time will bring them within the 40 year window and they will be included in the future.

REPLACEMENT RESERVE ANALYSIS - GENERAL INFORMATION

The Bay Creek HOA Replacement Reserve Analysis calculations of recommended funding of Replacement Reserves by the Cash Flow Method and the Component Method, and the evaluation of the Current Funding, are based upon the same General Information; including the Study Year, Study Period, Adjustments (for interest, inflation, and/or a constant increase in annual funding), Beginning Balance, and Projected Replacements:

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, 2010.

STUDY PERIOD

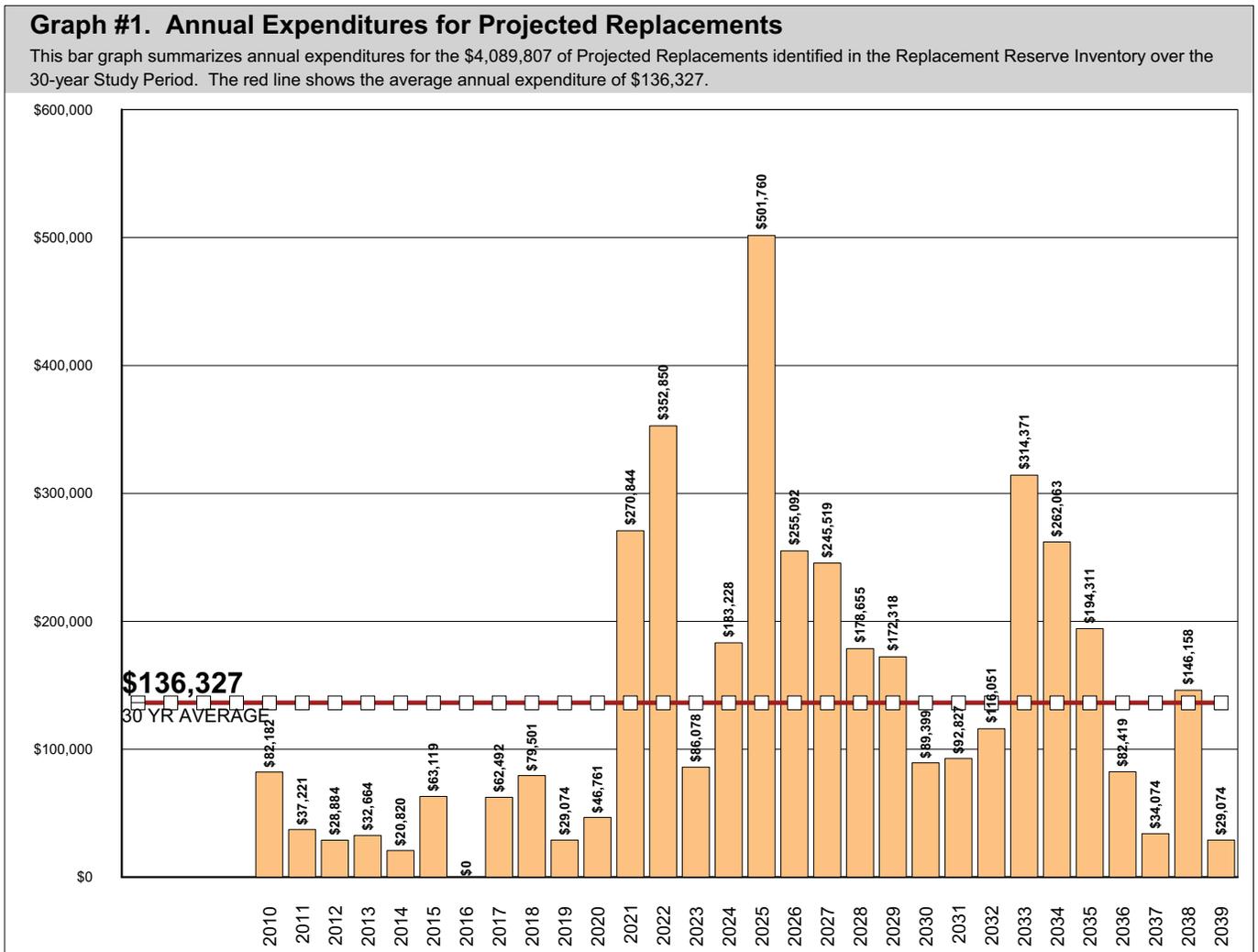
The Replacement Reserve Analysis evaluates the funding of Replacement Reserves over a 30-year Study Period that begins on January 1, 2010.

ADJUSTMENTS

The calculations in this Replacement Reserve Analysis do not account for interest earned on Replacement Reserves, the effects of inflation on the costs of Projected Replacements, or a constant annual increase in Annual Funding of Replacement Reserves. If requested, we will provide a Replacement Reserve Analysis with adjustments for inflation, interest, and/or a constant annual increase in funding, using values provided by the Association.

BEGINNING BALANCE

The Association reports Replacement Reserves on Deposit totaling \$-227,563 at the start of the Study Year.



PROJECTED REPLACEMENTS

The Bay Creek HOA Replacement Reserve Inventory (Section B) identifies 202 Projected Replacements with a one-time Replacement Cost of \$7,846,541 and replacements totaling \$4,089,807 over the 30-year Study Period. Projected Replacements are the replacement of commonly-owned items that:

- require periodic replacement and
- whose replacement is to be funded from Replacement Reserves.

The Replacement Reserve Inventory also identifies 62 Excluded Items. Expenditures for the replacement of these items are NOT scheduled for funding from Replacement Reserves. The accuracy of the calculations made in the Replacement Reserve Analysis is dependent on expenditures NOT being made for Excluded Items. The rationale behind these exclusions is discussed in detail on Page B1.

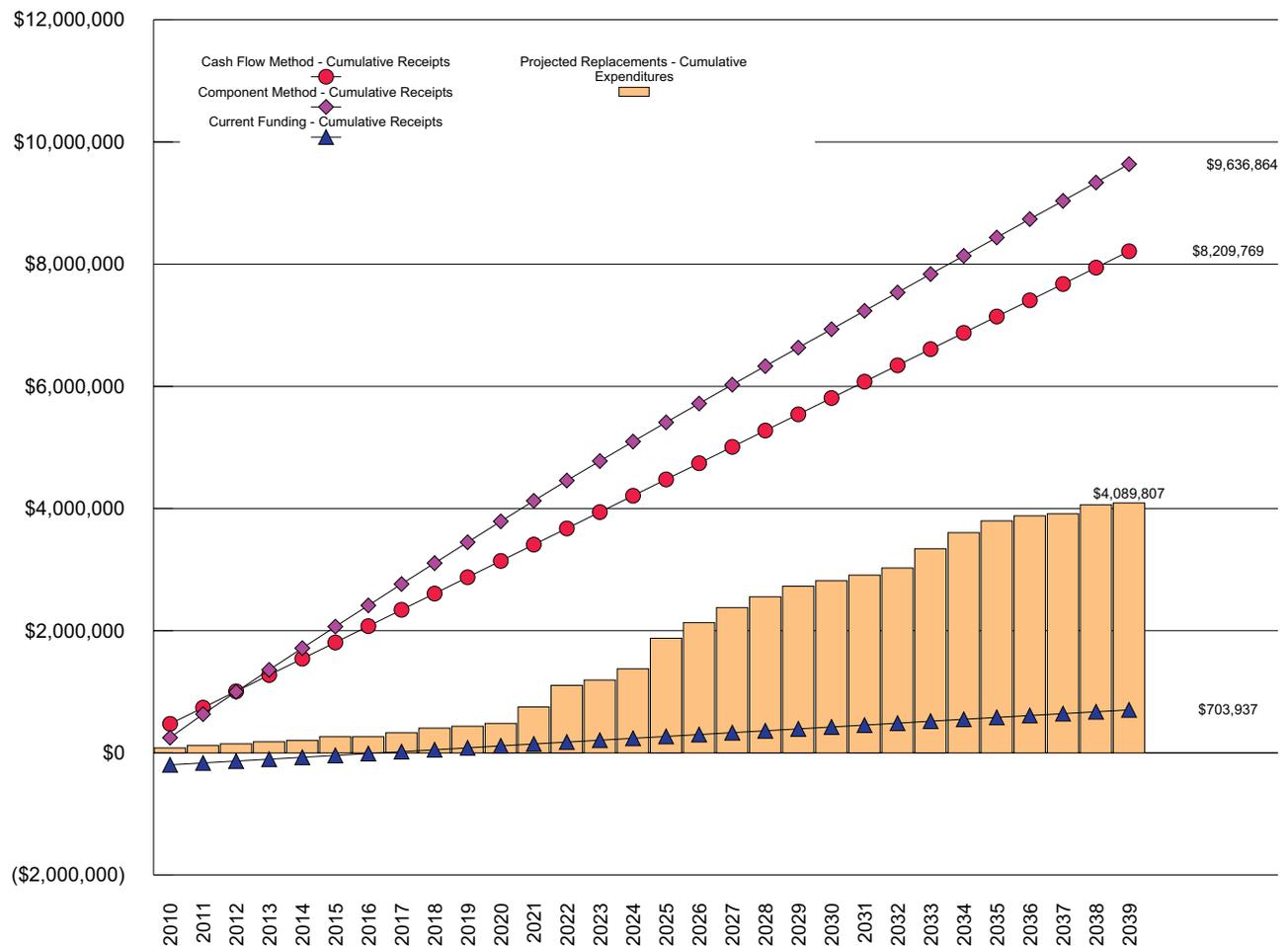
Expenditures from Replacements Reserves should be made only after consultation with an accounting professional.

The Section B - Replacement Reserve Inventory, contains Tables that list each Projected Replacement (and any Excluded Items) broken down into 22 major categories (Pages B3 to B23). Tables are also included that list each Projected Replacement by year for each of the 30 years of the Study Period beginning on Page C1.

The accuracy of this Replacement Reserve Analysis is dependent upon expenditures from Replacement Reserves being made only for the Projected Replacements specifically listed in the Replacement Reserve Inventory.

Graph #2. Comparison of Cumulative Replacement Reserve Funding and Expenditures

The line graph shows Replacement Reserves - Cumulative Receipts over the 30-year Study Period by the Cash Flow Method (red circles), Component Method (purple diamonds), and the Current Funding Plan as reported by the Association (blue triangles). The bar graph shows the Cumulative Expenditures necessary to fund the Project Replacements listed in the Replacement Reserve Inventory (Section B) and summarized in Graph #1.



CASH FLOW METHOD

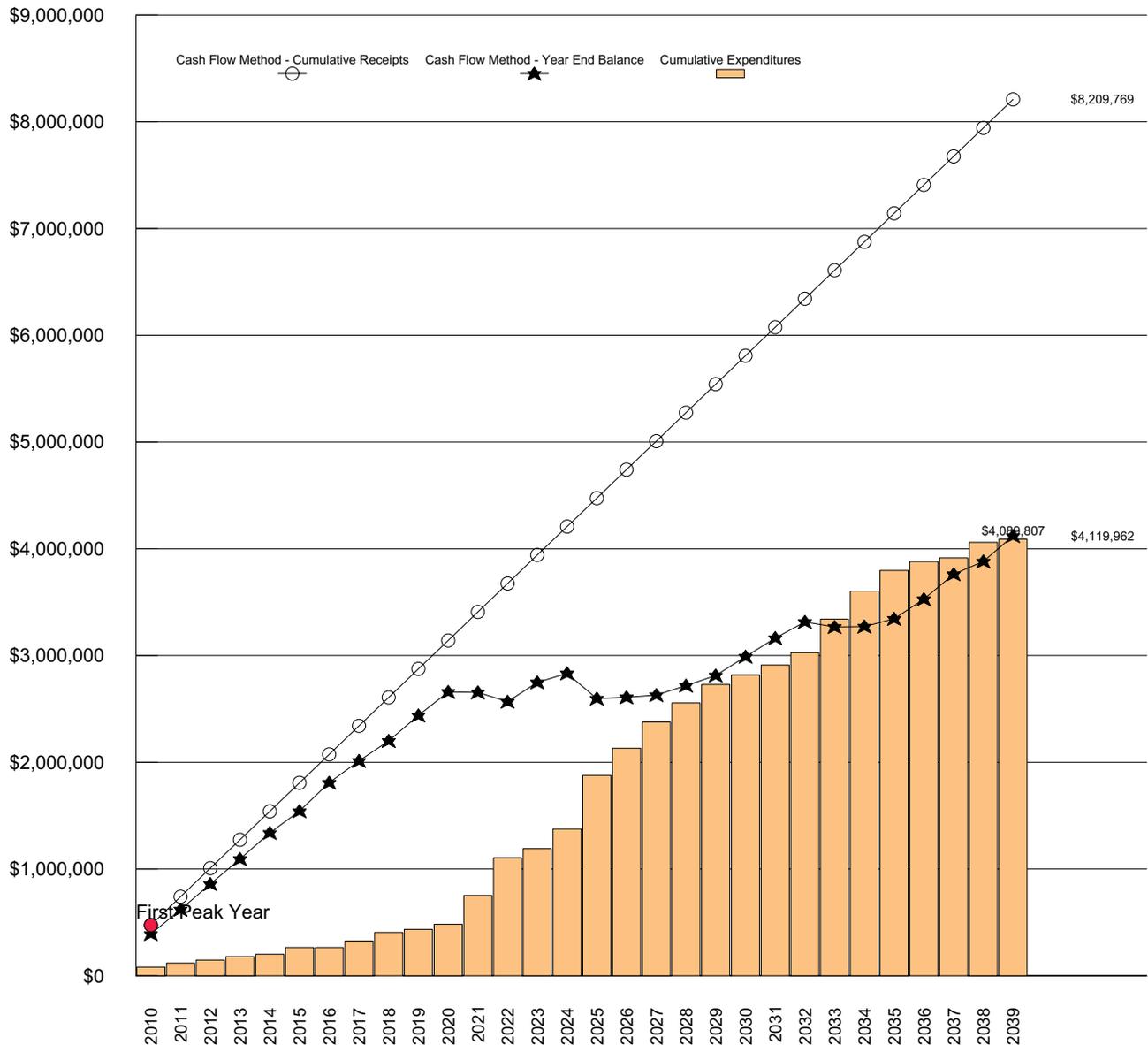
\$702,072 CASH FLOW METHOD MINIMUM ANNUAL FUNDING OF REPLACEMENT RESERVES IN THE STUDY YEAR, 2010.

\$76.98 Per unit (average), minimum monthly funding of Replacement Reserves

General. The Cash Flow Method is founded on the concept that the Replacement Reserve Account is solvent if cumulative receipts always exceed cumulative expenses. The Cash Flow Method calculates a MINIMUM annual deposit to Replacement Reserves that will:

- Fund all Projected Replacements listed in the Replacement Reserve Inventory (see Section B)
- Prevent Replacement Reserves from dropping below the Minimum Recommended Balance (see Page A-5)
- Allow a constant annual funding level between peaks in cumulative expenditures

Graph #3. Cash Flow Method - Cumulative Receipts and Expenditures Graph



CASH FLOW METHOD (cont'd)

- Replacement Reserves - Minimum Recommended Balance. The Minimum Recommended Balance is \$392,327, which is 5.0 percent of the one-time replacement cost of the Projected Replacements listed in the Replacement Reserve Inventory. Unless otherwise noted in the Comments on Page A-9, the Minimum Recommended Balance has been established by the Analyst based upon an evaluation of the types of items included in the Replacement Reserve Inventory.
- Peak Years. The Cash Flow Method calculates a constant annual funding of Replacement Reserves between peaks in cumulative expenditures called Peak Years. In Peak Years, Replacement Reserves on Deposit decline to the Replacement Reserves - Minimum Recommended Balance discussed in the paragraph above.
 First Peak Year. The First Peak Year occurs in 2010, after the completion of \$82,182 of replacements in the Study Year, 2010. The Cash Flow Method - Minimum Annual Funding of Replacement Reserves declines from \$702,072 in 2010 to \$266,733 in 2011.
 Subsequent Peak Years. There are no subsequent Peak Years and after the first Peak Year in 2010, the Cash Flow Method - Minimum Annual Funding remains constant for the remainder of the Study Period.
- Study Period. The Cash Flow Method calculates the recommended contributions to Replacement Reserves over the 30-year Study Period. These calculations are based upon a 40-year projection of expenditures for Projected Replacements to avoid the Replacement Reserve balance dropping to the Minimum Recommended Balance in the final year of the Study Period.
- Failure to Fund. The Cash Flow Method calculates a MINIMUM annual funding of Replacement Reserves. Failure to fund Replacement Reserves at the minimum level calculated by the Cash Flow Method will result in Replacement Reserves not being available for the Projected Replacements listed in the Replacement Reserve Inventory and/or Replacement Reserves dropping below the Minimum Recommended Balance.
- Adjustment to the Cash Flow Method for interest and inflation. The calculations in this Replacement Reserve Analysis do not account for interest earned on Replacement Reserves, the effects of inflation of the cost of Projected Replacements, or a constant annual increase in Annual Funding of Replacement Reserves.
- Comparison of Cash Flow Funding and Average Annual Expenditure. The Average Annual Expenditure for Projected Replacements listed in the Reserve Inventory over the 30-year Study Period is \$136,327 (see Graph #1). The Cash Flow Method - Minimum Annual Funding of Replacement Reserves in the Study Year is \$702,072. This is 515.0 percent of the Average Annual Expenditure, indicating that the Association is building Replacement Reserves in advance of the first Peak Year in 2010.

Table #1. Cash Flow Method Data - Years 1 through 30

Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Starting balance	(\$227,563)									
Annual deposit	\$702,072	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733
Expenditures	\$82,182	\$37,221	\$28,884	\$32,664	\$20,820	\$63,119		\$62,492	\$79,501	\$29,074
Year end balance	\$392,327	\$621,839	\$859,688	\$1,093,758	\$1,339,671	\$1,543,285	\$1,810,018	\$2,014,259	\$2,201,492	\$2,439,150
Minimum rec. funding lvl.	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327
Cumulative expenditures	\$82,182	\$119,403	\$148,287	\$180,950	\$201,770	\$264,889	\$264,889	\$327,381	\$406,882	\$435,957
Cumulative receipts	\$474,509	\$741,242	\$1,007,975	\$1,274,708	\$1,541,441	\$1,808,174	\$2,074,908	\$2,341,641	\$2,608,374	\$2,875,107
First Peak Year										
Year	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Annual deposit	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733
Expenditures	\$46,761	\$270,844	\$352,850	\$86,078	\$183,228	\$501,760	\$255,092	\$245,519	\$178,655	\$172,318
Year end balance	\$2,659,122	\$2,655,012	\$2,568,895	\$2,749,551	\$2,833,056	\$2,598,029	\$2,609,669	\$2,630,884	\$2,718,962	\$2,813,377
Minimum rec. funding lvl.	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327
Cumulative expenditures	\$482,718	\$753,561	\$1,106,411	\$1,192,488	\$1,375,717	\$1,877,477	\$2,132,569	\$2,378,088	\$2,556,743	\$2,729,061
Cumulative receipts	\$3,141,840	\$3,408,573	\$3,675,306	\$3,942,039	\$4,208,772	\$4,475,506	\$4,742,239	\$5,008,972	\$5,275,705	\$5,542,438
Year	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039
Annual deposit	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733	\$266,733
Expenditures	\$89,399	\$92,827	\$116,051	\$314,371	\$262,063	\$194,311	\$82,419	\$34,074	\$146,158	\$29,074
Year end balance	\$2,990,711	\$3,164,618	\$3,315,300	\$3,267,663	\$3,272,332	\$3,344,754	\$3,529,069	\$3,761,728	\$3,882,303	\$4,119,962
Minimum rec. funding lvl.	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327	\$392,327
Cumulative expenditures	\$2,818,460	\$2,911,287	\$3,027,337	\$3,341,708	\$3,603,771	\$3,798,082	\$3,880,501	\$3,914,575	\$4,060,733	\$4,089,807
Cumulative receipts	\$5,809,171	\$6,075,904	\$6,342,637	\$6,609,370	\$6,876,104	\$7,142,837	\$7,409,570	\$7,676,303	\$7,943,036	\$8,209,769

COMPONENT METHOD

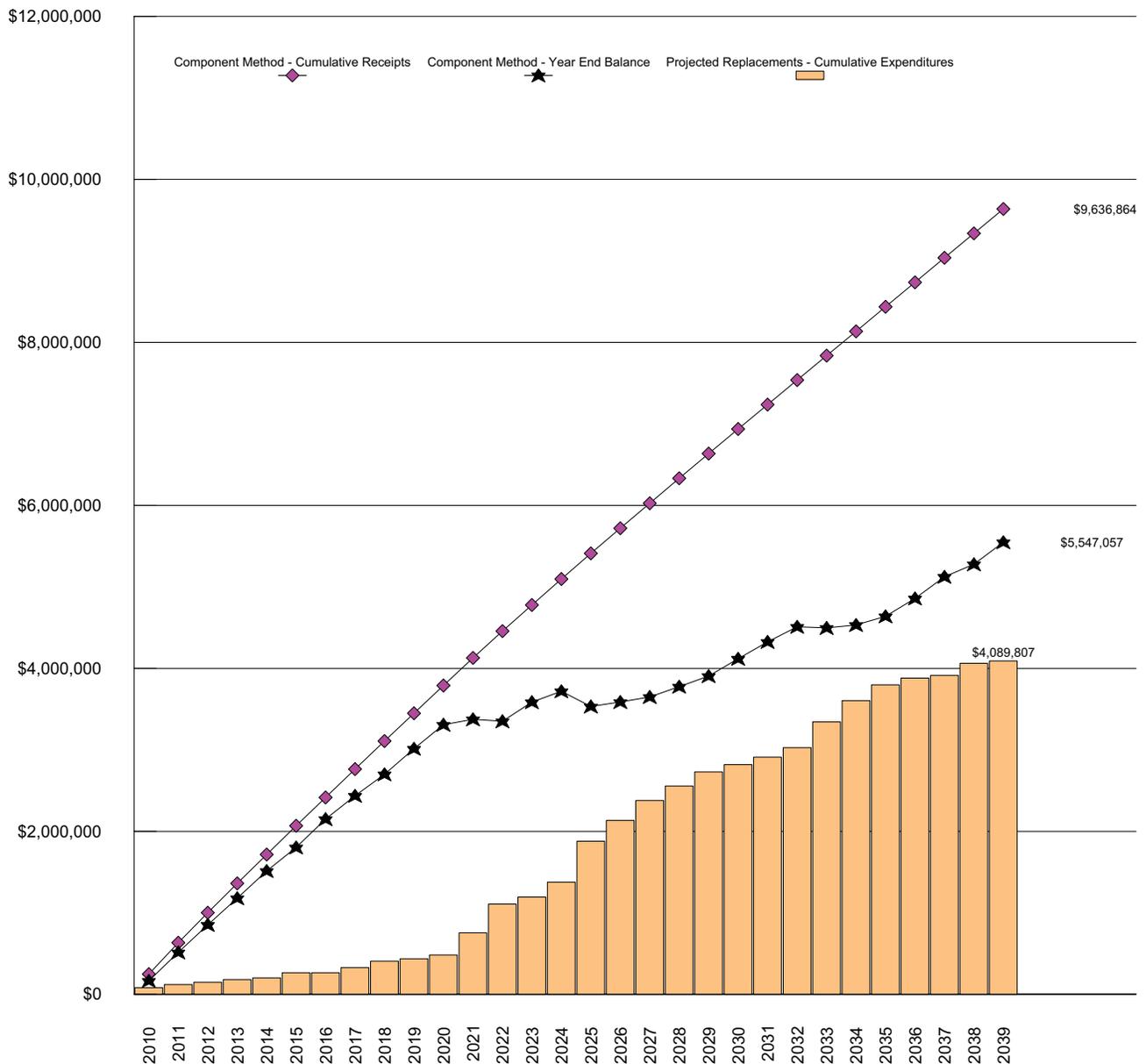


\$475,454 COMPONENT METHOD RECOMMENDED ANNUAL FUNDING OF REPLACEMENT RESERVES IN THE STUDY YEAR, 2010.

\$52.13 Per unit (average), recommended monthly funding of Replacement Reserves

General. The Component Method is a time tested and very conservative mathematical model developed by HUD in the early 1980s. Each of the 202 Projected Replacements listed in the Replacement Reserve Inventory is treated as a separate account. The Beginning Balance is allocated to each of these individual accounts, as is all subsequent funding of Replacement Reserves. These funds are "locked" in these individual accounts and are not available to fund other Projected Replacements. The calculation of the Recommended Annual Funding of Replacement Reserves is a multi-step process outlined in more detail on Page A7.

Graph #4. Component Method - Cumulative Receipts and Expenditures Graph



COMPONENT METHOD (cont'd)

- **Current Funding Objective.** A Current Funding Objective is calculated for each of the Projected Replacements listed in the Replacement Reserve Inventory. Replacement Cost is divided by the Normal Economic Life to determine the nominal annual contribution. The Remaining Economic Life is then subtracted from the Normal Economic Life to calculate the number of years that the nominal annual contribution should have been made. The two values are then multiplied to determine the Current Funding Objective. This is repeated for each of the 202 Projected Replacements. The total, \$1,532,613, is the Current Funding Objective.

For an example, consider a very simple Replacement Reserve Inventory with one Projected Replacement, a fence with a \$1,000 Replacement Cost, a Normal Economic Life of 10 years, and a Remaining Economic Life of 2 years. A contribution to Replacement Reserves of \$100 (\$1,000 + 10 years) should have been made in each of the previous 8 years (10 years - 2 years). The result is a Current Funding Objective of \$800 (8 years x \$100 per year).

- **Funding Percentage.** The Funding Percentage is calculated by dividing the Beginning Balance (\$-227,563) by the Current Funding Objective (\$1,532,613). At Bay Creek HOA the Funding Percentage is -14.8%
- **Allocation of the Beginning Balance.** The Beginning Balance is divided among the 202 Projected Replacements in the Replacement Reserve Inventory. The Current Funding Objective for each Projected Replacement is multiplied by the Funding Percentage and these funds are then "locked" into the account of each item.

If we relate this calculation back to our fence example, it means that the Association has not accumulated \$800 in Reserves (the Funding Objective), but rather at -14.8 percent funded, there is \$-119 in the account for the fence.

- **Annual Funding.** The Recommended Annual Funding of Replacement Reserves is then calculated for each Projected Replacement. The funds allocated to the account of the Projected Replacement are subtracted from the Replacement Cost. The result is then divided by the number of years until replacement, and the result is the annual funding for each of the Projected Replacements. The sum of these is \$475,454, the Component Method Recommended Annual Funding of Replacement Reserves in the Study Year (2010).

In our fence example, the \$-119 in the account is subtracted from the \$1,000 Total Replacement Cost and divided by the 2 years that remain before replacement, resulting in an annual deposit of \$559. Next year, the deposit remains \$559, but in the third year, the fence is replaced and the annual funding adjusts to \$100.

- **Adjustment to the Component Method for interest and inflation.** The calculations in the Replacement Reserve Analysis do not account for interest earned on Replacement Reserves, the effects of inflation of the cost of Projected Replacements, or a constant annual increase in Annual Funding of Replacement Reserves.

Table #2. Component Method Data - Years 1 through 30

Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Starting balance	(\$227,563)									
Annual deposit	\$475,454	\$385,577	\$367,012	\$359,577	\$354,670	\$352,560	\$347,777	\$347,777	\$343,782	\$342,357
Expenditures	\$82,182	\$37,221	\$28,884	\$32,664	\$20,820	\$63,119		\$62,492	\$79,501	\$29,074
Year end balance	\$165,709	\$514,065	\$852,193	\$1,179,106	\$1,512,956	\$1,802,397	\$2,150,175	\$2,435,460	\$2,699,741	\$3,013,023
Cumulative Expenditures	\$82,182	\$119,403	\$148,287	\$180,950	\$201,770	\$264,889	\$264,889	\$327,381	\$406,882	\$435,957
Cumulative Receipts	\$247,891	\$633,468	\$1,000,480	\$1,360,056	\$1,714,726	\$2,067,287	\$2,415,064	\$2,762,841	\$3,106,623	\$3,448,980
Year	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Annual deposit	\$340,900	\$338,255	\$329,548	\$320,175	\$317,511	\$314,691	\$309,704	\$306,558	\$305,373	\$303,618
Expenditures	\$46,761	\$270,844	\$352,850	\$86,078	\$183,228	\$501,760	\$255,092	\$245,519	\$178,655	\$172,318
Year end balance	\$3,307,162	\$3,374,573	\$3,351,272	\$3,585,369	\$3,719,652	\$3,532,583	\$3,587,195	\$3,648,234	\$3,774,952	\$3,906,253
Cumulative Expenditures	\$482,718	\$753,561	\$1,106,411	\$1,192,488	\$1,375,717	\$1,877,477	\$2,132,569	\$2,378,088	\$2,556,743	\$2,729,061
Cumulative Receipts	\$3,789,880	\$4,128,134	\$4,457,683	\$4,777,858	\$5,095,369	\$5,410,060	\$5,719,764	\$6,026,322	\$6,331,696	\$6,635,314
Year	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039
Annual deposit	\$300,906	\$300,877	\$300,481	\$299,763	\$298,748	\$301,116	\$300,171	\$299,936	\$299,936	\$299,616
Expenditures	\$89,399	\$92,827	\$116,051	\$314,371	\$262,063	\$194,311	\$82,419	\$34,074	\$146,158	\$29,074
Year end balance	\$4,117,760	\$4,325,811	\$4,510,241	\$4,495,633	\$4,532,318	\$4,639,123	\$4,856,875	\$5,122,737	\$5,276,515	\$5,547,057
Cumulative Expenditures	\$2,818,460	\$2,911,287	\$3,027,337	\$3,341,708	\$3,603,771	\$3,798,082	\$3,880,501	\$3,914,575	\$4,060,733	\$4,089,807
Cumulative Receipts	\$6,936,221	\$7,237,097	\$7,537,578	\$7,837,341	\$8,136,089	\$8,437,205	\$8,737,376	\$9,037,312	\$9,337,248	\$9,636,864

CURRENT FUNDING



\$31,050 CURRENT ANNUAL FUNDING OF REPLACEMENT RESERVES
 (as reported by the Association).

\$3.40 Per unit (average), reported current monthly funding of Replacement Reserves

General. Our evaluation of the Current Association Funding assumes that the Association will continue to fund Replacement Reserves at the current level of \$31,050 per year in each of the 30 years of the Study Period.

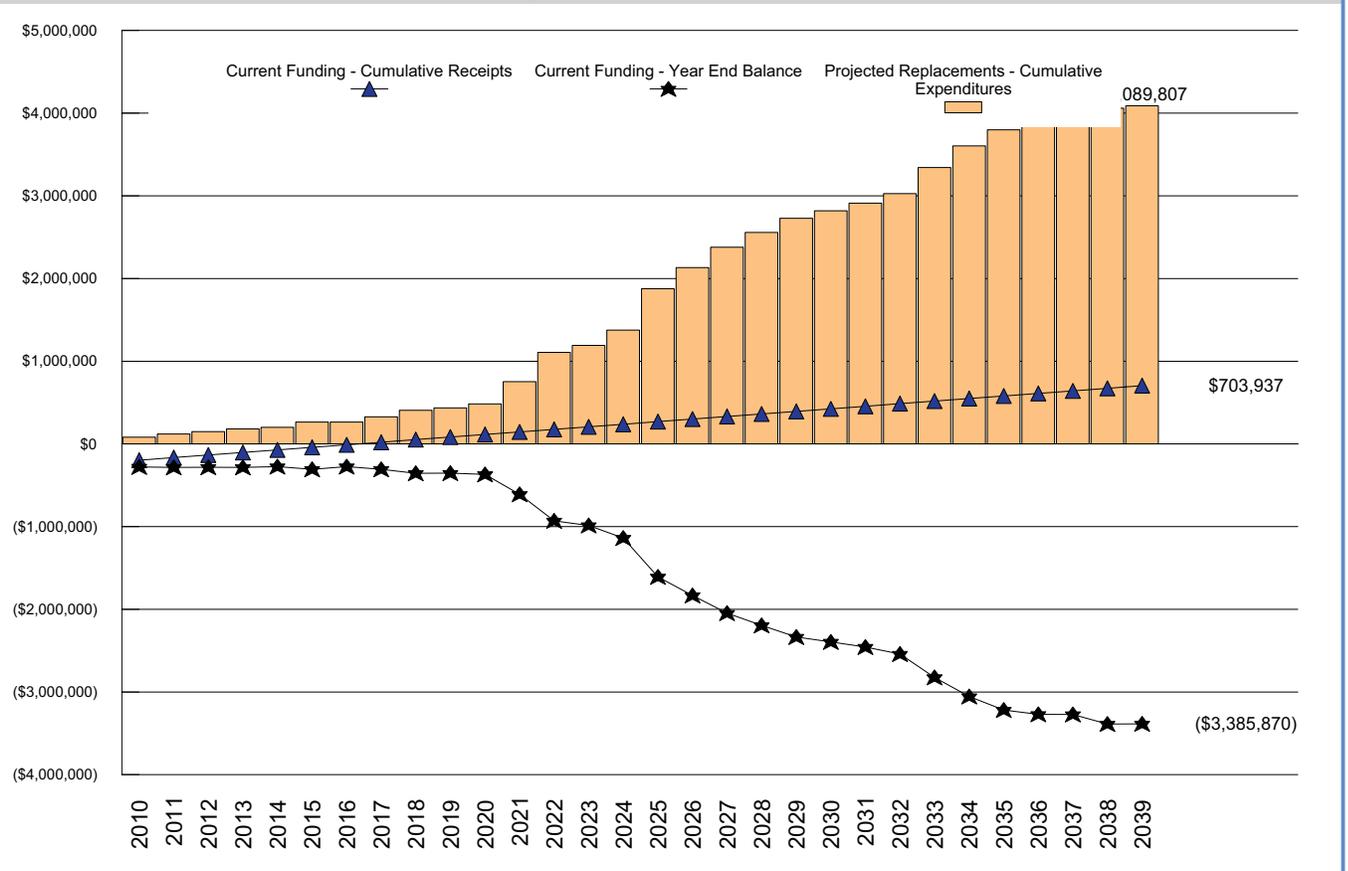
Our evaluation is based upon this Replacement Reserve Funding Level, a \$-227,563 Beginning Balance, the Projected Annual Replacement Expenditures shown in Graph #1 and listed in the Replacement Reserve Inventory, and any interest, inflation rate, or constant annual increase in annual contribution adjustments discussed below.

- Evaluation. Our calculations have determined that Current Annual Funding of Replacement Reserves, as reported by the Association, is inadequate to fund Projected Replacement beginning in 2010.

The Current Annual Funding of Replacement Reserves results in insufficient funds to make Projected Replacements in 30 years of the 30-year Study Period, and a maximum shortfall of \$-3,387,846 occurs in 2038.

- Adjustment to the Current Association Funding for interest and inflation. The Calculations in the Replacement Reserve Analysis do not account for interest earned on Replacement Reserves, the effects of inflation of the cost of Projected Replacements, or a constant annual increase in Annual Funding of Replacement Reserves.
- Comparison of Current Association Funding and Average Annual Expenditure. The average annual expenditure for Projected Replacements listed in the Reserve Inventory over the 30-year Study Period is \$136,327 (see Graph #1). Current Association annual funding of Replacement Reserves is \$31,050, or approximately 23 percent of the Average Annual Expenditure.

Graph #5. Current Association Funding - Cumulative Receipts and Expenditures Graph



CURRENT FUNDING (cont'd)

Table #3. Current Funding Data - Years 1 through 30

Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Starting balance	(\$227,563)									
Annual deposit	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050
Expenditures	\$82,182	\$37,221	\$28,884	\$32,664	\$20,820	\$63,119		\$62,492	\$79,501	\$29,074
Year end balance	(\$278,695)	(\$284,866)	(\$282,700)	(\$284,313)	(\$274,083)	(\$306,152)	(\$275,102)	(\$306,544)	(\$354,995)	(\$353,020)
Cumulative Expenditures	\$82,182	\$119,403	\$148,287	\$180,950	\$201,770	\$264,889	\$264,889	\$327,381	\$406,882	\$435,957
Cumulative Receipts	(\$196,513)	(\$165,463)	(\$134,413)	(\$103,363)	(\$72,313)	(\$41,263)	(\$10,213)	\$20,837	\$51,887	\$82,937
Year	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Annual deposit	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050
Expenditures	\$46,761	\$270,844	\$352,850	\$86,078	\$183,228	\$501,760	\$255,092	\$245,519	\$178,655	\$172,318
Year end balance	(\$368,731)	(\$608,524)	(\$930,324)	(\$985,351)	(\$1,137,530)	(\$1,608,240)	(\$1,832,282)	(\$2,046,751)	(\$2,194,356)	(\$2,335,624)
Cumulative expenditures	\$482,718	\$753,561	\$1,106,411	\$1,192,488	\$1,375,717	\$1,877,477	\$2,132,569	\$2,378,088	\$2,556,743	\$2,729,061
Cumulative receipts	\$113,987	\$145,037	\$176,087	\$207,137	\$238,187	\$269,237	\$300,287	\$331,337	\$362,387	\$393,437
Year	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039
Annual deposit	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050	\$31,050
Expenditures	\$89,399	\$92,827	\$116,051	\$314,371	\$262,063	\$194,311	\$82,419	\$34,074	\$146,158	\$29,074
Year end balance	(\$2,393,973)	(\$2,455,750)	(\$2,540,750)	(\$2,824,071)	(\$3,055,084)	(\$3,218,345)	(\$3,269,714)	(\$3,272,738)	(\$3,387,846)	(\$3,385,870)
Cumulative Expenditures	\$2,818,460	\$2,911,287	\$3,027,337	\$3,341,708	\$3,603,771	\$3,798,082	\$3,880,501	\$3,914,575	\$4,060,733	\$4,089,807
Cumulative Receipts	\$424,487	\$455,537	\$486,587	\$517,637	\$548,687	\$579,737	\$610,787	\$641,837	\$672,887	\$703,937

COMMENTS ON THE REPLACEMENT RESERVE ANALYSIS

- This Replacement Reserve Study has been developed in compliance with the Community Associations Institute, National Reserve Study Standards, for a Level One Study - Full Service.
- Bay Creek HOA has 760 units. The type of property is a home owners association.
- Our calculations assume that Replacement Reserves are not subject to tax.
- The starting reserves balance for January 1, 2010 reflects balances as of September 30, 2009 plus budgeted deposits to be made by the end of the year as calculated by data provided by the Manager.

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REPLACEMENT RESERVE INVENTORY GENERAL INFORMATION

Bay Creek HOA - Replacement Reserve Inventory identifies 264 items. Two types of items are identified, Projected Replacements and Excluded Items:

- **PROJECTED REPLACEMENTS.** 202 of the items are Projected Replacements and the periodic replacements of these items are scheduled for funding from Replacement Reserves. The Projected Replacements have an estimated one-time replacement cost of \$7,846,541. Replacements totaling \$4,089,807 are scheduled in the Replacement Reserve Inventory over the 30-year Study Period.

Projected Replacements are the replacement of commonly owned physical assets that require periodic replacement and whose replacement is to be funded from Replacement Reserves.

- **EXCLUDED ITEMS.** 62 of the items are Excluded Items, and expenditures for these items are NOT scheduled for funding from Replacement Reserves. The accuracy of the calculations made in the Replacement Reserve Analysis is dependent on expenditures NOT being made for Excluded Items. The Excluded Items are listed in the Replacement Reserve Inventory to identify specific items and categories of items that are not to be funded from Replacement Reserves. There are multiple categories of items that are typically excluded from funding by Replacement Reserves, including but not limited to:

Tax Code. The United States Tax Code grants very favorable tax status to Replacement Reserves, conditioned on expenditures being made within certain guidelines. These guidelines typically exclude maintenance activities, partial replacements, repairs, capital improvements, and one-time only replacements.

Value. Items with a replacement cost of less than \$1,000 are typically excluded from funding from Replacement Reserves. This exclusion is made to accurately reflect how Replacement Reserves are administered. If the Association has selected an alternative level, it will be noted in the Replacement Reserve Inventory - General Comments on Page B2.

Long-lived Items. Items that when properly maintained, can be assumed to have a life equal to the property as a whole, are typically excluded from the Replacement Reserve Inventory.

Unit improvements. Items located on property owned by a single unit and where the items serve a single unit are generally assumed to be the responsibility of that unit, not the Association.

Other non-common improvements. Items owned by the local government, public and private utility companies, the United States Postal Service, Master Associations, state and local highway authorities, etc., may be installed on property that is owned by the Association. These types of items are generally not the responsibility of the Association and are excluded from the Replacement Reserve Inventory.

The rationale for the exclusion of an item from funding by Replacement Reserves is discussed in more detail in the 'Comments' section of its page of the Replacement Reserve Inventory.

- **CATEGORIES.** The 264 items included in the Bay Creek HOA Replacement Reserve Inventory are divided into 22 major categories. Each category is printed on a separate page, Pages B3 to B23.
- **LEVEL OF SERVICE.** This Replacement Reserve Inventory has been developed in compliance with the standards established for a Level One Study - Full Service, as defined by the National Reserve Study Standards, established in 1998 by Community Associations Institute, which states:

A Level I - Full Service Reserve Study includes the computation of complete component inventory information regarding commonly owned components provided by the property manager, quantities derived from field measurements and/or quantity takeoffs from to-scale engineering drawings that may be made available. The condition of all components is ascertained from a visual inspection of each component by the analyst. The life expectancy and the value of the components are provided based on these observations and the funding status and funding plan are then derived from analysis of this data.

REPLACEMENT RESERVE INVENTORY - GENERAL INFORMATION (cont'd)

- **INVENTORY DATA.** Each of the 202 Projected Replacements listed in the Replacement Reserve Inventory includes the following data:

Item Number. The Item Number is assigned sequentially and is intended for identification purposes only.

Item Description. We have named each item included in the Inventory. Where the name of the item and the category are not sufficient to specifically identify the item, we have included additional information in the Comments section at the bottom of the page.

Units. We have used standard abbreviations to identify the number of units including SF-square feet, FT-foot, SY-square yard, LS-lump sum, EA-each, and PR-pair. Nonstandard abbreviations are noted in the Comments section on the page on which the abbreviation is used.

Number of Units. The methods used to develop the quantities are discussed in "Level of Service" above.

Unit Replacement Cost. We use two sources to develop the unit cost data shown in the Inventory; industry standard estimating manuals published by R. S. Means Company, Inc., and data that we have developed based upon our experience with similar replacement projects. We frequently use our best professional judgment to modify these values to reflect conditions at the site that we believe will affect the unit costs. Actual Replacement Costs may vary substantially from our estimates because of unforeseen demolition costs, engineering and architectural fees, timing of the replacement, etc.

Normal Economic Life (Yrs). The number of years that a new and properly installed item should be expected to remain in service.

Economic Life Remaining (Yrs). The estimated number of years before an item will need to be replaced. In "normal" conditions, this could be calculated by subtracting the age of the item from the Normal Economic Life of the item, but only rarely do physical assets age "normally". Some items may have longer or shorter lives depending on many factors such as environment, initial quality of the item, maintenance, etc.

Total Replacement Cost. This is calculated by multiplying the Unit Replacement Cost by the Number of Units.

Each of the 62 Excluded Items includes the Item Description, Units, and Number of Units. Many of the Excluded Items are listed as a 'Lump Sum' with a quantity of 1. For the Excluded Items, this indicates that all of the items identified by the 'Item Description' are excluded from funding by Replacement Reserves.

- **REVIEW OF EXPENDITURES.** All expenditures from Replacement Reserves should be made only after consultation with an accounting professional.
- **PARTIAL FUNDING.** Items may have been included in the Replacement Reserve Inventory at less than 100 percent of their full quantity and/or replacement cost. This is done on items that will never be replaced in their entirety, but which may require periodic replacements over an extended period of time. The assumptions that provide the basis for any partial funding are noted on in the Comments section.

VEHICLE BRIDGES - Bay Creek Village Bridges (simple span, precast concrete plank over cart path)
 PROJECTED REPLACEMENTS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
1	48' wide x 32' span superstructure (3)	sf	4,608	\$295.00	40	31	\$1,359,360
2	28' wide x 32' span superstructure (4)	sf	3,584	\$295.00	40	31	\$1,057,280
3	Repoint brick parapets	sf	1,792	\$2.95	20	11	\$5,286
4	Repoint precast coping stones	lf	448	\$3.05	20	11	\$1,366

- Bay Creek Village Bridges (simple span, precast concrete plank over cart path) - Replacement Costs - Subtotal \$2,423,293

VEHICLE BRIDGES - Bay Creek Village Bridges (simple span, precast concrete plank over cart path)
 COMMENTS

- Bridges are constructed on cast -in place abutments. Abutments, wingwalls and other substructure is presumed to have an 80-year economic life and are excluded.

MARINA EAST VILLAGE BRIDGES - (single and two-span, precast concrete plank, over water)

PROJECTED REPLACEMENTS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
5	Dual span 37' wide x 76' long	sf	2,812	\$342.00	40	36	\$961,704
6	Single span 37' wide x 38' long	sf	1,406	\$342.00	40	36	\$480,852
7	Refurbish precast baluster guardrail	lf	420	\$6.55	20	16	\$2,751

VILLAGE BRIDGES - (single and two-span, precast concrete plank, over water) - Replacement Costs - Subtotal \$1,445,307

MARINA EAST VILLAGE BRIDGES - (single and two-span, precast concrete plank, over water)

COMMENTS

- Bridges are constructed on cast -in place abutments. Abutments, wingwalls and other substructure is presumed to have an 80-year economic life and are excluded.

CONCRETE COMPONENTS
PROJECTED REPLACEMENTS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
8	Concrete sidewalk (3%) REC CNTR	sf	1,103	\$8.50	60	10	\$9,379
9	Concrete sidewalk (3%) REC CNTR	sf	1,103	\$8.50	60	16	\$9,379
10	Concrete sidewalk (3%) REC CNTR	sf	1,103	\$8.50	60	22	\$9,379
11	Concrete sidewalk (3%) REC CNTR	sf	1,103	\$8.50	60	28	\$9,379
12	Concrete sidewalk (3%) REC CNTR	sf	1,103	\$8.50	60	34	\$9,379
13	Concrete sidewalk (3%) REC CNTR	sf	1,103	\$8.50	60	40	\$9,379
14	Concrete sidewalk (3%) REC CNTR	sf	1,103	\$8.50	60	46	\$9,379
15	Concrete sidewalk (3%) REC CNTR	sf	1,103	\$8.50	60	52	\$9,379
16	Concrete sidewalk (3%) REC CNTR	sf	1,103	\$8.50	60	58	\$9,379
17	Concrete sidewalk (3%) REC CNTR	sf	1,103	\$8.50	60	64	\$9,379
18	Concrete sidewalk (3%) CART PATHS	sf	3,540	\$8.50	60	7	\$30,090
19	Concrete sidewalk (3%) CART PATHS	sf	3,540	\$8.50	60	13	\$30,090
20	Concrete sidewalk (3%) CART PATHS	sf	3,540	\$8.50	60	19	\$30,090
21	Concrete sidewalk (3%) CART PATHS	sf	3,540	\$8.50	60	25	\$30,090
22	Concrete sidewalk (3%) CART PATHS	sf	3,540	\$8.50	60	31	\$30,090
23	Concrete sidewalk (3%) CART PATHS	sf	3,540	\$8.50	60	37	\$30,090
24	Concrete sidewalk (3%) CART PATHS	sf	3,540	\$8.50	60	43	\$30,090
25	Concrete sidewalk (3%) CART PATHS	sf	3,540	\$8.50	60	49	\$30,090
26	Concrete sidewalk (3%) CART PATHS	sf	3,540	\$8.50	60	55	\$30,090
27	Concrete sidewalk (3%) CART PATHS	sf	3,540	\$8.50	60	61	\$30,090

CONCRETE COMPONENTS - Replacement Costs - Subtotal \$394,689

CONCRETE COMPONENTS
COMMENTS

- Cart path quantities are based on current completed path network within the Bay Creek Villages.
- All sidewalks within the villages are excluded.

CONCRETE COMPONENTS (cont.)

PROJECTED REPLACEMENTS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
28	Conc curb & gutter (3%) REC CTR	ft	72	\$34.00	10	15	\$2,433
29	Conc curb & gutter (3%) BAYCREEK PKWY	ft	424	\$34.00	10	11	\$14,411
30	Conc curb & gutter (3%) PALMER DR	ft	216	\$34.00	10	12	\$7,344
31	Conc curb & gutter (3%) NICKLAUS DR	ft	144	\$34.00	10	13	\$4,896
32	Conc curb & gutter (3%) HERON PT	ft	276	\$34.00	10	15	\$9,379
33	Conc curb & gutter (3%) SIGNATURE	ft	366	\$34.00	10	12	\$12,428
34	Conc curb & gutter (3%) NEW QUARTER	ft	266	\$34.00	10	14	\$9,057
35	Conc curb & gutter (3%) HOLLIES	ft	269	\$34.00	10	15	\$9,155
36	Conc curb & gutter (3%) PLANTATION	ft	242	\$34.00	10	16	\$8,239
37	Conc curb & gutter (3%) MARINA EAST	ft	364	\$34.00	10	17	\$12,388
38	Conc curb & gutter (3%) THE COLONY	ft	153	\$34.00	10	17	\$5,196

CONCRETE COMPONENTS (cont.) - Replacement Costs - Subtotal \$94,923

CONCRETE COMPONENTS (cont.)

COMMENTS

Empty box for comments.

PAVEMENTS & PAVER WALKS
 PROJECTED REPLACEMENTS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
39	Asph pvmnt, overlay REC CNTR	sf	36,780	\$1.40	20	15	\$51,492
40	Asph pvmnt, overlay BAYCRK PKWY	sf	155,408	\$1.40	20	11	\$217,571
41	Asph pvmnt, overlay PALMER DR	sf	80,872	\$1.40	20	12	\$113,221
42	Asph pvmnt, overlay NICKLAUS DR	sf	26,444	\$1.40	20	13	\$37,022
43	Asph pvmnt, overlay HERON POINTE	sf	105,846	\$1.40	20	15	\$148,184
44	Asph pvmnt, overlay SIGNATURE	sf	146,198	\$1.40	20	12	\$204,677
45	Asph pvmnt, overlay NEW QUARTER	sf	98,637	\$1.40	20	14	\$138,092
46	Asph pvmnt, overlay PLANTATION PT	sf	91,647	\$1.40	20	15	\$128,306
47	Asph pvmnt, overlay HOLLIES	sf	116,559	\$1.40	20	16	\$163,183
48	Asph pvmnt, overlay MARINA EAST	sf	169,162	\$1.40	20	24	\$236,827
49	Asph pvmnt, overlay THE COLONY	sf	115,958	\$1.40	20	17	\$162,341
50	Asph pvmnt, sealcoat REC CNTR	sf	36,780	\$0.15	20	1	\$5,517
51	Asph pvmnt, sealcoat BAYCRK PKWY	sf	155,408	\$0.15	20	none	\$23,311
52	Asph pvmnt, sealcoat PALMER DR	sf	80,872	\$0.15	20	none	\$12,131
53	Asph pvmnt, sealcoat NICKLAUS DR	sf	26,444	\$0.15	20	none	\$3,967
54	Asph pvmnt, sealcoat HERON POINTE	sf	105,846	\$0.15	20	1	\$15,877
55	Asph pvmnt, sealcoat SIGNATURE	sf	146,198	\$0.15	20	none	\$21,930
56	Asph pvmnt, sealcoat NEW QUARTER	sf	98,637	\$0.15	20	none	\$14,796
57	Asph pvmnt, sealcoat PLANTATION PT	sf	91,647	\$0.15	20	1	\$13,747
58	Asph pvmnt, sealcoat HOLLIES	sf	116,559	\$0.15	20	2	\$17,484
59	Asph pvmnt, sealcoat MARINA EAST	sf	169,162	\$0.15	20	9	\$25,374
60	Asph pvmnt, sealcoat THE COLONY	sf	115,958	\$0.15	20	3	\$17,394
61	Reset pavers, sand (15%), MARINA EAST	sf	4,812	\$3.50	10	8	\$16,842
62	Reset pavers, sand (15%), THE COLONY	sf	3,356	\$3.50	10	8	\$11,746
PAVEMENTS & PAVER WALKS - Replacement Costs - Subtotal							\$1,801,030

PAVEMENTS & PAVER WALKS
 COMMENTS

- We have assumed that the Association will replace the asphalt pavement by the installation of a 2 inch thick overlay. The pavement will need to be milled prior to the installation of the overlay. Milling and the cost of minor repairs (5 to 10 percent of the total area) to the base materials and bearing soils beneath the pavement are included in the cost shown above.
- Pavement quantities are calculated from furnished site plans.

BAY CREEK VILLAGES MAIN ENTRANCE
 PROJECTED REPLACEMENTS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
63	Brick site wall - 8", repoint (partial)	sf	2,500	\$2.64	20	25	\$6,600
64	Brick site wall - 8", replace (partial)	sf	1,000	\$48.00	30	35	\$48,000
65	Brick Piers & Precast Capitols (repoint)	ls	1	\$3,900.00	15	25	\$3,900
66	36" decorative metal fence at brick	lf	174	\$36.00	25	18	\$6,264
67	Entry & exit gates (refurbish)	ea	4	\$1,275.00	8	none	\$5,100
68	Entry & exit gates (replace)	ea	4	\$2,990.00	24	16	\$11,960
69	Entry gate operators	ea	4	\$1,490.00	12	4	\$5,960
70	48" mtl fence POOL FENCE	lf	595	\$39.00	25	21	\$23,205
71	48" mtl fence MARINA EAST CEMETARY	lf	180	\$39.00	25	23	\$7,020
72	48" mtl fence MARINA EAST	lf	3,976	\$39.00	25	23	\$155,064
73	48" mtl fence THE COLONY	lf	825	\$39.00	25	22	\$32,175
74	48" mtl fence BAYCREEK PKWY	lf	2,941	\$39.00	25	18	\$114,699
75	48" mtl fence GATE HOUSE/RT 642	lf	1,336	\$39.00	25	17	\$52,104
76	48" mtl fence PALMER DRIVE	lf	3,483	\$39.00	25	19	\$135,837

BAY CREEK VILLAGES MAIN ENTRANCE - Replacement Costs - Subtotal \$607,888

BAY CREEK VILLAGES MAIN ENTRANCE
 COMMENTS

Empty comment box for additional notes.

CMU WITH EIFS WALLS, PIERS & METAL FENCE - MARINA EAST VILLAGE ENTRANCES
 PROJECTED REPLACEMENTS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
77	R&B - EIFS site wall - 8", refurbish (partial)	sf	1,500	\$3.19	10	8	\$4,785
78	R&B - EIFS site wall - 8", replace (partial)	sf	500	\$33.00	30	28	\$16,500
79	R&B - EIFS Piers & Capitols (refurbish)	ls	1	\$4,150.00	10	8	\$4,150
80	F&B - EIFS site wall - 8", refurbish (partial)	sf	1,100	\$3.19	10	8	\$3,509
81	F&B - EIFS site wall - 8", replace (partial)	sf	350	\$33.00	30	28	\$11,550
82	F&B - EIFS Piers & Capitols (refurbish)	ls	1	\$3,790.00	10	8	\$3,790

EIFS WALLS, PIERS & METAL FENCE - MARINA EAST VILLAGE ENTRANCES - Replacement Costs - Subtotal \$44,284

CMU WITH EIFS WALLS, PIERS & METAL FENCE - MARINA EAST VILLAGE ENTRANCES
 COMMENTS

- R&B - Entrance located at Randolph and Bahama Road

- F&B - Entrance located at Fig and Bahama Road

GATEHOUSES, PAVILIONS AND MISCELLANEOUS STRUCTURES

PROJECTED REPLACEMENTS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
83	Main Gatehouse - roof	ls	1	\$4,990.00	25	16	\$4,990
84	Main Gatehouse - gutters & downspouts	ls	1	\$2,075.00	25	16	\$2,075
85	Main Gatehouse - ext trim	ls	1	\$3,970.00	25	16	\$3,970
86	Main Gatehouse - ext lights	ls	1	\$1,100.00	15	5	\$1,100
87	Main Gatehouse - ext doors	ea	3	\$1,200.00	30	21	\$3,600
88	Main Gatehouse - ext windows	ls	1	\$3,590.00	30	21	\$3,590
89	Main Gatehouse - ductless AC	ea	1	\$1,800.00	20	7	\$1,800
90	Main Gatehouse - compressor	ea	1	\$890.00	10	7	\$890
91	Main Gatehouse - VCT flooring	ls	1	\$880.00	10	1	\$880
92	Main Gatehouse - counters & cabinets	ls	1	\$2,700.00	30	21	\$2,700
93	Main Gatehouse - keypad controller	ea	1	\$2,700.00	12	11	\$2,700
94	Mani Gatehouse - CCTV cameras	ea	4	\$917.00	12	11	\$3,668
95	Main Gatehouse - brick veneer (repoint)	ls	1	\$4,400.00	30	21	\$4,400
96	PAV1 - standing seam metal roof	sf	312	\$8.12	35	31	\$2,533
97	PAV1 - trim	ls	1	\$1,670.00	35	31	\$1,670
98	PAV1 - column cladding	ea	8	\$1,345.00	35	31	\$10,760
99	PAV1 - soffits	ls	1	\$1,190.00	35	31	\$1,190
100	PAV1 - lighting	ea	14	\$118.00	15	11	\$1,652
101	PAV1 - signage panel	ls	1	\$2,300.00	15	11	\$2,300

GATEHOUSES, PAVILIONS AND MISCELLANEOUS STRUCTURES - Replacement Costs - Subtotal \$56,468

GATEHOUSES, PAVILIONS AND MISCELLANEOUS STRUCTURES

COMMENTS

- PAV1 - PAVILION 1 (MARINA VILLAGE EAST approx. 12' x 20' at corner of Fig and Washington)

GATEHOUSES, PAVILIONS AND MISCELLANEOUS STRUCTURES - cont'd

PROJECTED REPLACEMENTS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
102	PAV2 - standing seam metal roof	sf	364	\$8.12	35	31	\$2,956
103	PAV2 - trim	ls	1	\$1,960.00	35	31	\$1,960
104	PAV2 - column cladding	ea	4	\$1,510.00	35	31	\$6,040
105	PAV2 - soffits	ls	1	\$1,320.00	35	31	\$1,320
106	PAV2 - lighting (wall mtd)	ea	8	\$134.00	15	11	\$1,072
107	PAV2 - lighting (soffit mtd)	ea	6	\$89.00	15	11	\$534
108	ME Gatehouse - roof, standing seam	sf	629	\$8.12	35	31	\$5,109
109	ME Gatehouse - ext windows	ea	32	\$315.00	35	31	\$10,080
110	ME Gatehouse - ext door	ea	1	\$588.00	35	31	\$588
111	ME Gatehouse - PTAC unit	ea	1	\$1,091.00	15	11	\$1,091
112	ME Gatehouse - toilet	ea	1	\$288.00	30	26	\$288
113	ME Gatehouse - vanity & base cabinet	ea	1	\$564.00	30	26	\$564
114	ME Gatehouse - vinyl flooring	sf	400	\$2.37	15	none	\$948
115	ME Gatehouse - ext lighting	ea	8	\$134.00	15	11	\$1,072

GATEHOUSES, PAVILIONS AND MISCELLANEOUS STRUCTURES - cont'd - Replacement Costs - Subtotal \$33,622

GATEHOUSES, PAVILIONS AND MISCELLANEOUS STRUCTURES - cont'd

COMMENTS

- PAV2 - PAVILION 2 (MARINA VILLAGE EAST approx. 14' x 20' at corner of Bahama & Randolph)

- ME - MARINA EAST GATE HOUSE (approx. 20' x 20' at corner of Bahama & Randolph)

GATEHOUSES, PAVILIONS AND MISCELLANEOUS STRUCTURES - cont'd
 PROJECTED REPLACEMENTS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
116	Colony Gatehouse - roof, standing seam	sf	421	\$8.15	35	31	\$3,433
117	Colony Gatehouse - windows, small	ea	12	\$236.00	35	31	\$2,832
118	Colony Gatehouse - windows, large	ea	3	\$529.00	35	31	\$1,587
119	Colony Gatehouse - door	ea	1	\$588.00	35	31	\$588
120	Colony Gatehouse - trim	ls	1	\$3,590.00	20	16	\$3,590
121	Colony Gatehouse - key pad control	ea	1	\$2,700.00	12	11	\$2,700
122	Colony Gatehouse - CCTV camera	ea	1	\$917.00	12	11	\$917
123	Colony Gatehouse - drop arm gate	ea	4	\$945.00	15	11	\$3,780
124	Colony Gatehouse - pergola roofing	sf	288	\$8.15	35	31	\$2,347
125	Colony Gatehouse - pergola trim	ls	1	\$2,200.00	20	16	\$2,200
126	Colony Gatehouse - pergola columns	ea	8	\$1,345.00	35	31	\$10,760
127	Colony Mail Shelter - roofing	sf	304	\$8.15	35	31	\$2,479
128	Colony Mail Shelter - trim	ls	1	\$2,345.00	20	16	\$2,345
129	Colony Mail Shelter - soffits	sf	216	\$3.65	35	31	\$788
130	Colony Mail Shelter - lights	ea	12	\$118.00	15	11	\$1,416
131	Colony Mail Shelter - mail boxes	ea	114	\$79.00	35	31	\$9,006

GATEHOUSES, PAVILIONS AND MISCELLANEOUS STRUCTURES - cont'd - Replacement Costs - Subtotal \$50,769

GATEHOUSES, PAVILIONS AND MISCELLANEOUS STRUCTURES - cont'd
 COMMENTS

- THE COLONY GATEHOUSE (approx. 10' x 13' at Colony & Fig with two pergolas and mail shelter)

GATEHOUSES, PAVILIONS AND MISCELLANEOUS STRUCTURES - cont'd

PROJECTED REPLACEMENTS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
132	PP - gazebo copper roof	sf	1,848	\$10.27	30	26	\$18,979
133	PP - copper gutters & downspouts	lf	192	\$9.07	30	26	\$1,741
134	PP - cupola windows	ea	12	\$277.00	30	26	\$3,324
135	PP - balusters , refurbish	lf	90	\$39.00	20	16	\$3,510
136	PP - arched metal arbors (refurbish)	ea	12	\$315.00	8	4	\$3,780
137	PP - arched metal arbors (replace)	ea	12	\$1,288.00	32	28	\$15,456
138	Pool Building - roofing	sf	1,294	\$8.13	30	25	\$10,517
139	Pool Building - ext doors	ea	6	\$588.00	30	25	\$3,528
140	Pool Building - ext windows	ls	1	\$2,700.00	30	25	\$2,700
141	Pool Building - trim and soffits	ls	1	\$3,385.00	25	20	\$3,385
142	Pool Building - fiber cement siding	ls	1	\$11,450.00	50	45	\$11,450
143	Pool Building - toilets	ea	2	\$322.00	30	25	\$644
144	Pool Building - vanity	ea	2	\$379.00	30	25	\$758
145	Pool Building - shower	ea	2	\$779.00	30	25	\$1,558
146	Pool Building - toilet partition	ea	4	\$1,670.00	30	25	\$6,680
147	Pool Building - hot water heater	ea	1	\$489.00	15	10	\$489
148	Pool Building - PTAC unit	ea	1	\$1,800.00	15	10	\$1,800
149	Pool Building - ext lighting	ls	1	\$780.00	15	10	\$780
150	Pool Building - elec space heaters	ea	3	\$497.00	12	7	\$1,491

GATEHOUSES, PAVILIONS AND MISCELLANEOUS STRUCTURES - cont'd - Replacement Costs - Subtotal \$92,570

GATEHOUSES, PAVILIONS AND MISCELLANEOUS STRUCTURES - cont'd

COMMENTS

- PP - PLANTATION POINTE GAZEBO (12-sided approx. 43 feet across)

MISCELLANEOUS SITE IMPROVEMENTS
 PROJECTED REPLACEMENTS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
151	HP - 20hp 2,000 GPM Pump (replace)	ea	1	\$25,000.00	20	14	\$25,000
152	HP - Pump & motor (refurbish)	ea	1	\$2,500.00	5	4	\$2,500
153	HP - Bronze Heron Sculpture (refurbish)	ls	1	\$1,500.00	10	10	\$1,500
154	HP - Bronze Children Sculpture (refurbish)	ls	1	\$1,000.00	10	10	\$1,000
155	BC - Pump at sculpture	ea	1	\$900.00	10	5	\$900
156	BC - Bronze Boat Sculpture (refurbish)	ls	1	\$2,500.00	10	10	\$2,500
157	Colony Beach Access- board walk decking	sf	2,000	\$7.15	30	25	\$14,300
158	Colony Beach Access - benches 24" wide	lf	42	\$32.00	30	25	\$1,344
159	Colony Beach Access - steps and railings	ls	2	\$940.00	30	25	\$1,880
160	Signage Letters (Bay Creek)	ls	1	\$3,700.00	30	21	\$3,700
161	Signage Letters (Plantation Pointe)	ls	1	\$4,990.00	30	25	\$4,990
162	Traffic Signs (partial)	ls	1	\$1,800.00	10	5	\$1,800
163	Information Signs (partial)	ls	1	\$1,200.00	10	5	\$1,200
164	Stone Plaque Village Signs (refurbish)	ea	6	\$1,180.00	10	4	\$7,080
165	Stone Plaque Bay Creek Signs (refurbish)	ls	1	\$1,500.00	10	4	\$1,500

MISCELLANEOUS SITE IMPROVEMENTS - Replacement Costs - Subtotal \$71,194

MISCELLANEOUS SITE IMPROVEMENTS
 COMMENTS

- HP - Heron Point Water Feature

- BC - Bay Creek Main Entrance Feature

SITE LIGHTING
PROJECTED REPLACEMENTS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
166	Street Lights, Colony & Sunset	ea	6	\$147.00	15	11	\$882
167	Light poles, Colony & Sunset	ea	6	\$740.00	30	26	\$4,440
168	Street Lights, Bahama Road & Circle	ea	17	\$147.00	15	11	\$2,499
169	Light poles, Bahama Road & Circle	ea	17	\$740.00	30	26	\$12,580
170	Street Lights, Bridgeton	ea	7	\$147.00	15	11	\$1,029
171	Light poles, Bridgeton	ea	7	\$740.00	30	26	\$5,180
172	Street Lights, Waters Edge	ea	6	\$147.00	15	11	\$882
173	Light poles, Waters Edge	ea	6	\$740.00	30	26	\$4,440
174	Street Lights, Charlestowne	ea	5	\$147.00	15	11	\$735
175	Light poles, Charlestowne	ea	5	\$740.00	30	26	\$3,700
176	Street Lights, along Bay Creek Pkwy	ea	77	\$217.00	15	8	\$16,709
177	Light poles, along Bay Creek Pkwy	ea	77	\$956.00	30	23	\$73,612
178	Street Lights, along Palmer Drive	ea	16	\$217.00	15	10	\$3,472
179	Light poles, along Bay Creek Pkwy	ea	16	\$956.00	30	25	\$15,296

SITE LIGHTING - Replacement Costs - Subtotal \$145,456

SITE LIGHTING
COMMENTS

Empty comment box for site lighting items.

**SWIMMING POOL
 PROJECTED REPLACEMENTS**

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
180	Swimming pool, structure	sf	6,400	\$42.00	60	55	\$268,800
181	Swimming pool, whitecoat	sf	7,840	\$5.25	10	5	\$41,160
182	Swimming pool, waterline tile	ft	360	\$15.00	10	5	\$5,400
183	Swimming pool, coping	ft	360	\$50.00	20	15	\$18,000
184	Swimming pool, cover	sf	6,600	\$1.95	5	3	\$12,870
185	Wading pool, structure	sf	324	\$42.00	60	55	\$13,608
186	Wading pool, whitecoat	sf	396	\$5.25	10	5	\$2,079
187	Swimming pool, waterline tile	ft	72	\$15.00	10	5	\$1,080
188	Swimming pool, coping	ft	72	\$50.00	20	15	\$3,600
189	Wading pool pump (less than 2 hp)	ea	1	\$1,200.00	8	3	\$1,200
190	Swimming pool filter	ea	4	\$1,800.00	10	5	\$7,200
191	Swimming pool, concrete deck (20%)	sf	2,349	\$11.00	30	10	\$25,841
192	Swimming pool, concrete deck (20%)	sf	2,349	\$11.00	30	16	\$25,841
193	Swimming pool, concrete deck (20%)	sf	2,349	\$11.00	30	22	\$25,841
194	Swimming pool, concrete deck (20%)	sf	2,349	\$11.00	30	28	\$25,841
195	Swimming pool, concrete deck (20%)	sf	2,349	\$11.00	30	34	\$25,841
196	Pool deck coating	sf	11,745	\$1.33	8	7	\$15,621
197	Pool furniture, partial	ls	1	\$1,200.00	2	1	\$1,200
SWIMMING POOL - Replacement Costs - Subtotal							\$521,024

**SWIMMING POOL
 COMMENTS**

- We have assumed that the project to replace the pool deck will include the replacement of the plumbing and electrical systems installed beneath the pavement.

COURTS

PROJECTED REPLACEMENTS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
198	Tennis court, color coat	ea	2	\$5,000.00	5	2	\$10,000
199	Tennis court, resurface/overlay	ea	2	\$18,000.00	20	15	\$36,000
200	Tennis court, post & footings	ea	2	\$2,600.00	20	15	\$5,200
201	Tennis court, net	ea	2	\$700.00	5	2	\$1,400
202	Tennis court, fence	ft	476	\$24.00	20	15	\$11,424

COURTS - Replacement Costs - Subtotal \$64,024

COURTS

COMMENTS

Empty area for comments.

VALUATION EXCLUSIONS

EXCLUDED ITEMS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
	Landscape lighting fixtures	ls	1				EXCLUDED
	Flag pole lighting	ls	1				EXCLUDED
	Mailboxes (unles noted otherwise)	ls	1				EXCLUDED
	Bike racks	ls	1				EXCLUDED
	Bench	ls	1				EXCLUDED

VALUATION EXCLUSIONS

COMMENTS

- Valuation Exclusions. For ease of administration of the Replacement Reserves and to reflect accurately how Replacement Reserves are administered, items with a dollar value less than \$1,000.00 have not been scheduled for funding from Replacement Reserves. Examples of items excluded from funding by Replacement Reserves by this standard are listed above.

- The list above exemplifies exclusions by the cited standard(s) and is not intended to be comprehensive.

LONG-LIFE EXCLUSIONS

EXCLUDED ITEMS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
	Exterior masonry walls w/ balanced fill	ls	1				EXCLUDED
	Masonry features	ls	1				EXCLUDED
	Miscellaneous culverts	ls	1				EXCLUDED
	Bridge structure and foundations	ls	1				EXCLUDED
	Concrete retaining walls	ls	1				EXCLUDED
	Bronze monuments and statues	ls	1				EXCLUDED
	Exterior brick veneer	ls	1				EXCLUDED
	Rip Rap Breakwaters	ls	1				EXCLUDED
	Building foundation(s)	ls	1				EXCLUDED
	Concrete floor slabs (interior)	ls	1				EXCLUDED
	Wall, floor, & roof structure	ls	1				EXCLUDED
	Common element electrical services	ls	1				EXCLUDED
	Electrical wiring	ls	1				EXCLUDED
	Water piping at common facilities	ls	1				EXCLUDED
	Waste piping at common facilities	ls	1				EXCLUDED
	Gas services at common facilities	ls	1				EXCLUDED
	Stainless steel pool fixtures	ls	1				EXCLUDED

LONG-LIFE EXCLUSIONS

COMMENTS

- Long Life Exclusions. Components that when properly maintained, can be assumed to have a life equal to the property as a whole, are normally excluded from the Replacement Reserve Inventory. Examples of items excluded from funding by Replacement Reserves by this standard are listed above.
- Exterior masonry is generally assumed to have an unlimited economic life but periodic repointing is required and we have included this for funding in the Replacement Reserve Inventory.
- The list above exemplifies exclusions by the cited standard(s) and is not intended to be comprehensive.

UNIT IMPROVEMENTS EXCLUSIONS

EXCLUDED ITEMS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
	Domestic water pipes serving one unit	ls	1				EXCLUDED
	Sanitary sewers serving one unit	ls	1				EXCLUDED
	Electrical wiring serving one unit	ls	1				EXCLUDED
	Cable TV service serving one unit	ls	1				EXCLUDED
	Telephone service serving one unit	ls	1				EXCLUDED
	Gas service serving one unit	ls	1				EXCLUDED
	Driveway on an individual lot	ls	1				EXCLUDED
	Apron on an individual lot	ls	1				EXCLUDED
	Sidewalk on an individual lot	ls	1				EXCLUDED
	Fence on an individual lot	ls	1				EXCLUDED
	Unit exteriors in their entirety	ls	1				EXCLUDED

UNIT IMPROVEMENTS EXCLUSIONS

COMMENTS

- Unit improvement Exclusions. We understand that the elements of the project that relate to a single unit are the responsibility of that unit owner. Examples of items excluded from funding by Replacement Reserves by this standard are listed above.
- The list above exemplifies exclusions by the cited standard(s) and is not intended to be comprehensive.

UTILITY EXCLUSIONS

EXCLUDED ITEMS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
	Primary electric feeds	ls	1				EXCLUDED
	Electric transformers	ls	1				EXCLUDED
	Cable TV systems and structures	ls	1				EXCLUDED
	Telephone cables and structures	ls	1				EXCLUDED
	Gas mains and meters	ls	1				EXCLUDED
	Water mains and meters	ls	1				EXCLUDED
	Sanitary sewers	ls	1				EXCLUDED
	Sewage pumping stations	ls	1				EXCLUDED
	Emergency back-up generators	ls	1				EXCLUDED
	Stormwater management piping	ls	1				EXCLUDED
	Stormwater management ponds	ls	1				EXCLUDED

UTILITY EXCLUSIONS

COMMENTS

- Utility Exclusions. Many improvements owned by utility companies are on property owned by the Association. We have assumed that repair, maintenance, and replacements of these components will be done at the expense of the appropriate utility company. Examples of items excluded from funding Replacement Reserves by this standard are listed above.

- The list above exemplifies exclusions by the cited standard(s) and is not intended to be comprehensive.

MAINTENANCE AND REPAIR EXCLUSIONS

EXCLUDED ITEMS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
	Cleaning of asphalt pavement	ls	1				EXCLUDED
	Crack sealing of asphalt pavement	ls	1				EXCLUDED
	Painting of curbs	ls	1				EXCLUDED
	Striping of parking spaces	ls	1				EXCLUDED
	Numbering of parking spaces	ls	1				EXCLUDED
	Landscaping and site grading	ls	1				EXCLUDED
	Exterior painting	ls	1				EXCLUDED
	Interior painting	ls	1				EXCLUDED
	Janitorial service	ls	1				EXCLUDED
	Repair services	ls	1				EXCLUDED
	Partial replacements	ls	1				EXCLUDED
	Capital improvements	ls	1				EXCLUDED

MAINTENANCE AND REPAIR EXCLUSIONS

COMMENTS

- Maintenance activities, one-time-only repairs, and capital improvements. These activities are NOT appropriately funded from Replacement Reserves. The inclusion of such component in the Replacement Reserve Inventory could jeopardize the special tax status of ALL Replacement Reserves, exposing the Association to significant tax liabilities. We recommend that the Board of Directors discuss these exclusions and Revenue Ruling 75-370 with a Certified Public Accountant.
- Examples of items excluded from funding by Replacement Reserves by this standard are listed above.
- The list above exemplifies exclusions by the cited standard(s) and is not intended to be comprehensive.

IRRIGATION SYSTEM EXCLUSIONS

EXCLUDED ITEMS

ITEM #	ITEM DESCRIPTION	UNIT	NUMBER OF UNITS	UNIT REPLACEMENT COST (\$)	NORMAL ECONOMIC LIFE (YRS)	REMAINING ECONOMIC LIFE (YRS)	REPLACEMENT COST (\$)
	Subsurface irrigation pipe	ls	1				EXCLUDED
	Subsurface irrigation valve	ls	1				EXCLUDED
	Subsurface irrigation control wiring	ls	1				EXCLUDED
	Irrigation control system	ls	1				EXCLUDED
	Irrigation system electrical service	ls	1				EXCLUDED
	Irrigation system enclosures	ls	1				EXCLUDED

IRRIGATION SYSTEM EXCLUSIONS

COMMENTS

- Irrigation System Exclusions. We have assumed that the maintenance, repair, and periodic replacement of the components of the extensive irrigation systems at the property will not be funded from Replacement Reserves. These systems should be inspected each spring when the systems are brought on line and each fall when they are winterized. Repairs/replacements should be made in conjunction with these inspections.

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PROJECTED ANNUAL REPLACEMENTS GENERAL INFORMATION

CALENDAR OF ANNUAL REPLACEMENTS. The 202 Projected Replacements in the Bay Creek HOA Replacement Reserve Inventory whose replacement is scheduled to be funded from Replacement Reserves are broken down on a year-by-year basis, beginning on Page C2.

REPLACEMENT RESERVE ANALYSIS AND INVENTORY POLICES, PROCEDURES, AND ADMINISTRATION

- **REVISIONS.** Revisions will be made to the Replacement Reserve Analysis and Replacement Reserve Inventory in accordance with the written instructions of the Board of Directors. No additional charge is incurred for the first revision, if requested in writing within three months of the date of the Replacement Reserve Study. It is our policy to provide revisions in electronic (Adobe PDF) format only.
- **CONFLICT OF INTEREST.** Neither Miller - Dodson Associates nor the Reserve Analyst has any prior or existing relationship with this Association which would represent a real or perceived conflict of interest.
- **RELIANCE ON DATA PROVIDED BY THE CLIENT.** Information provided by an official representative of the Association regarding financial, physical conditions, quality, or historical issues is deemed reliable.
- **INTENT.** This Replacement Reserve Study is a reflection of the information provided by the Association and the visual evaluations of the Analyst. It has been prepared for the sole use of the Association and is not for the purpose of performing an audit, quality/forensic analyses, or background checks of historical records.
- **PREVIOUS REPLACEMENTS.** Information provided to Miller - Dodson Associates regarding prior replacements is considered to be accurate and reliable. Our visual evaluation is not a project audit or quality inspection.
- **UPDATING.** In the first two or possibly three years after the completion of a Level One Replacement Reserve Study, we recommend the Association review and revise the Replacement Reserve Analysis and Inventory annually to take into account replacements which have occurred and known changes in replacement costs. This can frequently be handled as a Level Two or Level Three Study (as defined by the Community Associations Institute), unless the Association has completed major replacement projects. A full analysis (Level One) based on a comprehensive visual evaluation of the site should be accomplished every three to five years or after each major replacement project.
- **EXPERIENCE WITH FUTURE REPLACEMENTS.** The Calendar of Annual Projected Replacements, lists replacements we have projected to occur over the next thirty years, begins on Page C2. Actual experience in replacing the items may differ significantly from the cost estimates and time frames shown because of conditions beyond our control. These differences may be caused by maintenance practices, inflation, variations in pricing and market conditions, future technological developments, regulatory actions, acts of God, and luck. Some items may function normally during our visual evaluation and then fail without notice.
- **REVIEW OF THE REPLACEMENT RESERVE STUDY.** For this study to be effective, it should be reviewed by the Bay Creek HOA Board of Directors, those responsible for the management of the items included in the Replacement Reserve Inventory, and the accounting professionals employed by the Association.

PROJECTED REPLACEMENTS - YEARS 1 TO 3

Item	2010	\$	Item	2011	\$	Item	2012	\$
51	Asph pvmnt, sealcoat BAYC	\$23,311	50	Asph pvmnt, sealcoat REC (\$5,517	58	Asph pvmnt, sealcoat HOLL	\$17,484
52	Asph pvmnt, sealcoat PALM	\$12,131	54	Asph pvmnt, sealcoat HERC	\$15,877	198	Tennis court, color coat	\$10,000
53	Asph pvmnt, sealcoat NICKL	\$3,967	57	Asph pvmnt, sealcoat PLAN	\$13,747	201	Tennis court, net	\$1,400
55	Asph pvmnt, sealcoat SIGN/	\$21,930	91	Main Gatehouse - VCT floor	\$880			
56	Asph pvmnt, sealcoat NEW	\$14,796	197	Pool furniture, partial	\$1,200			
67	Entry & exit gates (refurbish)	\$5,100						
114	ME Gatehouse - vinyl floorin	\$948						
Total Scheduled Replacements		\$82,182	Total Scheduled Replacements		\$37,221	Total Scheduled Replacements		\$28,884

PROJECTED REPLACEMENTS - YEARS 7 TO 9

Item	2016	\$	Item	2017	\$	Item	2018	\$
			18	Concrete sidewalk (3%) CAI	\$30,090	61	Reset pavers, sand (15%), 1	\$16,842
			89	Main Gatehouse - ductless /	\$1,800	62	Reset pavers, sand (15%), 1	\$11,746
			90	Main Gatehouse - compress	\$890	67	Entry & exit gates (refurbish,	\$5,100
			150	Pool Building - elec space h	\$1,491	77	R&B - EIFS site wall - 8", ref	\$4,785
			196	Pool deck coating	\$15,621	79	R&B - EIFS Piers & Capitols	\$4,150
			197	Pool furniture, partial	\$1,200	80	F&B - EIFS site wall - 8", ref	\$3,509
			198	Tennis court, color coat	\$10,000	82	F&B - EIFS Piers & Capitols	\$3,790
			201	Tennis court, net	\$1,400	176	Street Lights, along Bay Cre	\$16,709
						184	Swimming pool, cover	\$12,870
No Scheduled Replacements			Total Scheduled Replacements			Total Scheduled Replacements		
			\$62,492			\$79,501		

PROJECTED REPLACEMENTS - YEARS 10 TO 12

Item	2019	\$	Item	2020	\$	Item	2021	\$
59	Asph pvmnt, sealcoat MARII	\$25,374	8	Concrete sidewalk (3%) RE	\$9,379	3	Repoint brick parapets	\$5,286
152	HP - Pump & motor (refurbis	\$2,500	147	Pool Building - hot water he	\$489	4	Repoint precast coping ston	\$1,366
197	Pool furniture, partial	\$1,200	148	Pool Building - PTAC unit	\$1,800	29	Conc curb & gutter (3%) BA	\$14,411
			149	Pool Building - ext lighting	\$780	40	Asph pvmnt, overlay BAYCF	\$217,571
			153	HP - Bronze Heron Sculptur	\$1,500	91	Main Gatehouse - VCT floor	\$880
			154	HP - Bronze Children Sculpt	\$1,000	93	Main Gatehouse - keypad c	\$2,700
			156	BC - Bronze Boat Sculpture	\$2,500	94	Mani Gatehouse - CCTV ca	\$3,668
			178	Street Lights, along Palmer	\$3,472	100	PAV1 - lighting	\$1,652
			191	Swimming pool, concrete de	\$25,841	101	PAV1 - signage panel	\$2,300
						106	PAV2 - lighting (wall mtd)	\$1,072
						107	PAV2 - lighting (soffit mtd)	\$534
						111	ME Gatehouse - PTAC unit	\$1,091
						115	ME Gatehouse - ext lighting	\$1,072
						121	Colony Gatehouse - key pac	\$2,700
						122	Colony Gatehouse - CCTV c	\$917
						123	Colony Gatehouse - drop an	\$3,780
						130	Colony Mail Shelter - lights	\$1,416
						166	Street Lights, Colony & Sun	\$882
						168	Street Lights, Bahama Road	\$2,499
						170	Street Lights, Bridgeton	\$1,029
						172	Street Lights, Waters Edge	\$882
						174	Street Lights, Charlestowne	\$735
						189	Wading pool pump (less tha	\$1,200
						197	Pool furniture, partial	\$1,200
Total Scheduled Replacements		\$29,074	Total Scheduled Replacements		\$46,761	Total Scheduled Replacements		\$270,844

PROJECTED REPLACEMENTS - YEARS 13 TO 15

2022			2023			2024		
Item		\$	Item		\$	Item		\$
30	Conc curb & gutter (3%) PAI	\$7,344	19	Concrete sidewalk (3%) CAI	\$30,090	34	Conc curb & gutter (3%) NE	\$9,057
33	Conc curb & gutter (3%) SIC	\$12,428	31	Conc curb & gutter (3%) NIC	\$4,896	45	Asph pvmnt, overlay NEW C	\$138,092
41	Asph pvmnt, overlay PALME	\$113,221	42	Asph pvmnt, overlay NICKL	\$37,022	151	HP - 20hp 2,000 GPM Pump	\$25,000
44	Asph pvmnt, overlay SIGNA	\$204,677	184	Swimming pool, cover	\$12,870	152	HP - Pump & motor (refurbis	\$2,500
136	PP - arched metal arbors (re	\$3,780	197	Pool furniture, partial	\$1,200	164	Stone Plaque Village Signs	\$7,080
198	Tennis court, color coat	\$10,000				165	Stone Plaque Bay Creek Sig	\$1,500
201	Tennis court, net	\$1,400						
Total Scheduled Replacements		\$352,850	Total Scheduled Replacements		\$86,078	Total Scheduled Replacements		\$183,228

PROJECTED REPLACEMENTS - YEARS 16 TO 18

Item	2025	\$	Item	2026	\$	Item	2027	\$
28	Conc curb & gutter (3%) RE	\$2,433	7	Refurbish precast baluster g	\$2,751	18	Concrete sidewalk (3%) CAI	\$30,090
32	Conc curb & gutter (3%) HE	\$9,379	9	Concrete sidewalk (3%) RE(\$9,379	89	Main Gatehouse - ductless /	\$1,800
35	Conc curb & gutter (3%) HO	\$9,155	36	Conc curb & gutter (3%) PL/	\$8,239	90	Main Gatehouse - compress	\$890
39	Asph pvmnt, overlay REC C	\$51,492	47	Asph pvmnt, overlay HOLLIE	\$163,183	150	Pool Building - elec space h	\$1,491
43	Asph pvmnt, overlay HERON	\$148,184	67	Entry & exit gates (refurbish)	\$5,100	196	Pool deck coating	\$15,621
46	Asph pvmnt, overlay PLANT	\$128,306	68	Entry & exit gates (replace)	\$11,960	197	Pool furniture, partial	\$1,200
114	ME Gatehouse - vinyl floorin	\$948	69	Entry gate operators	\$5,960	198	Tennis court, color coat	\$10,000
155	BC - Pump at sculpture	\$900	83	Main Gatehouse - roof	\$4,990	201	Tennis court, net	\$1,400
162	Traffic Signs (partial)	\$1,800	84	Main Gatehouse - gutters &	\$2,075			
163	Information Signs (partial)	\$1,200	85	Main Gatehouse - ext trim	\$3,970			
181	Swimming pool, whitecoat	\$41,160	120	Colony Gatehouse - trim	\$3,590			
182	Swimming pool, waterline til	\$5,400	125	Colony Gatehouse - pergola	\$2,200			
183	Swimming pool, coping	\$18,000	128	Colony Mail Shelter - trim	\$2,345			
186	Wading pool, whitecoat	\$2,079	135	PP - balusters , refurbish	\$3,510			
187	Swimming pool, waterline til	\$1,080	192	Swimming pool, concrete de	\$25,841			
188	Swimming pool, coping	\$3,600						
190	Swimming pool filter	\$7,200						
196	Pool deck coating	\$15,621						
197	Pool furniture, partial	\$1,200						
199	Tennis court, resurface/over	\$36,000						
200	Tennis court, post & footings	\$5,200						
202	Tennis court, fence	\$11,424						
Total Scheduled Replacements		\$501,760	Total Scheduled Replacements		\$255,092	Total Scheduled Replacements		\$245,519

PROJECTED REPLACEMENTS - YEARS 22 TO 24

Item	2031	\$	Item	2032	\$	Item	2033	\$
29	Conc curb & gutter (3%) BA	\$14,411	10	Concrete sidewalk (3%) RE	\$9,379	31	Conc curb & gutter (3%) NIC	\$4,896
50	Asph pvmnt, sealcoat REC	\$5,517	30	Conc curb & gutter (3%) PAI	\$7,344	60	Asph pvmnt, sealcoat THE	\$17,394
54	Asph pvmnt, sealcoat HERC	\$15,877	33	Conc curb & gutter (3%) SIC	\$12,428	71	48" mtl fence MARINA EAS	\$7,020
57	Asph pvmnt, sealcoat PLAN	\$13,747	58	Asph pvmnt, sealcoat HOLL	\$17,484	72	48" mtl fence MARINA EAS	\$155,064
70	48" mtl fence POOL FENCE	\$23,205	73	48" mtl fence THE COLONY	\$32,175	93	Main Gatehouse - keypad c	\$2,700
87	Main Gatehouse - ext doors	\$3,600	193	Swimming pool, concrete de	\$25,841	94	Mani Gatehouse - CCTV ca	\$3,668
88	Main Gatehouse - ext windo	\$3,590	198	Tennis court, color coat	\$10,000	121	Colony Gatehouse - key pac	\$2,700
91	Main Gatehouse - VCT floor	\$880	201	Tennis court, net	\$1,400	122	Colony Gatehouse - CCTV c	\$917
92	Main Gatehouse - counters	\$2,700				176	Street Lights, along Bay Cre	\$16,709
95	Main Gatehouse - brick vene	\$4,400				177	Light poles, along Bay Creel	\$73,612
160	Signage Letters (Bay Creek)	\$3,700				184	Swimming pool, cover	\$12,870
197	Pool furniture, partial	\$1,200				196	Pool deck coating	\$15,621
						197	Pool furniture, partial	\$1,200
Total Scheduled Replacements		\$92,827	Total Scheduled Replacements		\$116,051	Total Scheduled Replacements		\$314,371

PROJECTED REPLACEMENTS - YEARS 25 TO 27

Item	2034	\$	Item	2035	\$	Item	2036	\$
34	Conc curb & gutter (3%) NE'	\$9,057	21	Concrete sidewalk (3%) CAI	\$30,090	36	Conc curb & gutter (3%) PL	\$8,239
48	Asph pvmnt, overlay MARIN	\$236,827	28	Conc curb & gutter (3%) RE	\$2,433	100	PAV1 - lighting	\$1,652
67	Entry & exit gates (refurbish)	\$5,100	32	Conc curb & gutter (3%) HE	\$9,379	101	PAV1 - signage panel	\$2,300
152	HP - Pump & motor (refurbis	\$2,500	35	Conc curb & gutter (3%) HO	\$9,155	106	PAV2 - lighting (wall mtd)	\$1,072
164	Stone Plaque Village Signs	\$7,080	63	Brick site wall - 8", repoint (p	\$6,600	107	PAV2 - lighting (soffit mtd)	\$534
165	Stone Plaque Bay Creek Sig	\$1,500	65	Brick Piers & Precast Capito	\$3,900	111	ME Gatehouse - PTAC unit	\$1,091
			138	Pool Building - roofing	\$10,517	112	ME Gatehouse - toilet	\$288
			139	Pool Building - ext doors	\$3,528	113	ME Gatehouse - vanity & ba	\$564
			140	Pool Building - ext windows	\$2,700	115	ME Gatehouse - ext lighting	\$1,072
			143	Pool Building - toilets	\$644	123	Colony Gatehouse - drop an	\$3,780
			144	Pool Building - vanity	\$758	130	Colony Mail Shelter - lights	\$1,416
			145	Pool Building - shower	\$1,558	132	PP - gazebo copper roof	\$18,979
			146	Pool Building - toilet partitior	\$6,680	133	PP - copper gutters & downs	\$1,741
			147	Pool Building - hot water hez	\$489	134	PP - cupola windows	\$3,324
			148	Pool Building - PTAC unit	\$1,800	166	Street Lights, Colony & Sun:	\$882
			149	Pool Building - ext lighting	\$780	167	Light poles, Colony & Sunse	\$4,440
			155	BC - Pump at sculpture	\$900	168	Street Lights, Bahama Road	\$2,499
			157	Colony Beach Access- board	\$14,300	169	Light poles, Bahama Road &	\$12,580
			158	Colony Beach Access - ben	\$1,344	170	Street Lights, Bridgeton	\$1,029
			159	Colony Beach Access - step	\$1,880	171	Light poles, Bridgeton	\$5,180
			161	Signage Letters (Plantation	\$4,990	172	Street Lights, Waters Edge	\$882
			162	Traffic Signs (partial)	\$1,800	173	Light poles, Waters Edge	\$4,440
			163	Information Signs (partial)	\$1,200	174	Street Lights, Charlestowne	\$735
			178	Street Lights, along Palmer	\$3,472	175	Light poles, Charlestowne	\$3,700
			179	Light poles, along Bay Creel	\$15,296			
			181	Swimming pool, whitecoat	\$41,160			
			182	Swimming pool, waterline til	\$5,400			
			186	Wading pool, whitecoat	\$2,079			
			187	Swimming pool, waterline til	\$1,080			
			190	Swimming pool filter	\$7,200			
			197	Pool furniture, partial	\$1,200			
Total Scheduled Replacements		\$262,063	Total Scheduled Replacements		\$194,311	Total Scheduled Replacements		\$82,419

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CONDITION ASSESSMENT

General Comments. Miller - Dodson Associates conducted a Reserve Study at Bay Creek in October, 2009. Bay Creek is in good overall condition for a community constructed beginning in 2001. A review of the Replacement Reserve Inventory will show that we are anticipating most of the components achieving their normal economic lives.

The following comments pertain to the larger, more significant components in the Replacement Reserve Inventory and to those items that are unique or deserving of attention because of their condition or the manner in which they have been treated in the Replacement Reserve Analysis or Inventory.

SITE IMPROVEMENTS

Asphalt Pavement. The site includes asphalt pavement for vehicle access and parking. In general, the asphalt pavement is in very good condition with limited cracking, alligating, or deterioration. The planned completion of the development and the turn over of future villages to the HOA will continue to increase the inventory of asphalt pavement. The table below is believed to reflect the areas that are currently the HOA's responsibility and the approximate quantities and estimated ages. The Association maintains a large inventory of asphalt pavement, including the following streets and parking areas:

ESTIMATED QUANTITIES OF ASPHALT PAVEMENT (2009) (measured from furnished drawings)		
Location (description)	Approximate Area (sq. ft.)	Average Approximate Age (years)
Recreation Center Parking and Drives	36,780	5
Baycreek Parkway	155,408	9
Palmer Drive	80,872	8
Nicklaus Drive	26,444	7
Heron Pointe Village	105,846	5
Signature Village	146,198	8
New Quarter Village	98,637	6
Plantation Pointe	91,647	5
Hollies Village	116,559	4
		Final Wear

Marina East Village	169,162	Surface has not been applied yet
The Colony Village (includes Colony Dr, Sunset Blvd, and the 3 cul de sacs)	115,958	3
Fig Street	Excluded	
Kings Bay Village	Excluded	
Fairways Village	Excluded	
Bayside Village	Excluded	

Quantities are estimated from to-scale construction plans provided and may not reflect precise as-built conditions.



Photo 1 - Typical view of recreation center parking lot asphalt



Photo 2 - Typical view of roadway with curb & gutter on each side

Excluded pavements are the entirety of Fig Street Right of Way, the Kings Bay Village, the entirety of the Fairways Village, the entirety of Bayside Village and the entirety of the golf club parking and driveways.

As a rule of thumb, asphalt should be overlayed when approximately five percent of the surface area has become cracked or has failed. The normal service life of asphalt pavement is typically 18 to 20 years.

In order to maintain the condition of the pavement throughout the community and to insure the longest life of the asphalt, we recommend a systematic and comprehensive maintenance program that includes:

1. Crack Sealing. All cracks should be sealed with an appropriate sealing compound to prevent water infiltration through the asphalt compound into the base. This repair should be done annually. This is an entirely different process from the seal coating discussed below. Crack sealing is normally considered a maintenance activity and is not funded from Reserves. Areas of extensive cracking or deterioration that cannot be made watertight by crack sealing should be cut out and patched.
2. Cleaning. Long-term exposure to oil or gas breaks down asphalt. Because this asphalt pavement is generally not used for long term parking, it is unlikely that frequent cleaning will be necessary. When necessary, spill areas should be cleaned, or if deterioration has penetrated the asphalt, patched. This is a maintenance activity, and we have assumed that it will not be funded from Reserves.
3. Seal Coating. The asphalt should be seal coated every three to five years. For this maintenance activity to be effective in extending the life of the asphalt, the crack sealing and cleaning of the asphalt, discussed above should be done first.



Photo 3 - View of typical roadway without curb & gutter



Photo 4 - View of Colony Drive with curb & gutter on both sides



Photo 5 - Examples of large open crack in pavement



Photo 6 - Example of tree root damage



Photo 7 - Example of early stages of alligatoring



Photo 8 - Example of early stages of a pothole developing

Pricing used in the study is based on a recent contract for a two-inch overlay and reflects the current local market.

Asphalt Seal Coat. None of the asphalt pavement appears to have been seal coated since the original application of final wear surfaces. Pavements are approaching the point where crack filling and seal coating should begin on the older portions of the pavement. We recommend following a crack filling and recoating cycle of five years for asphalt surfaces.

Vehicle Bridges. Within the Bay Creek Villages development there are seven different vehicle bridges located along various roads. These bridges all span portions of the cart path network. These bridges are all simple span bridges constructed with cast in place abutments, precast concrete planks, asphalt base course and asphalt wear surface with precast copings on brick masonry parapets and include concrete curbs, walks and/or medians.



Photo 9 - Typical view of vehicle bridge



Photo 10 - Typical view of vehicle bridge



Photo 11 - Bridges include cast in place abutment and wing walls



Photo 12 - Bridges are single span precast planks with brick and precast cap parapets

The Marina East village includes two vehicle bridges. These bridges are also cast in place concrete abutments with precast concrete planks. One of the bridges is two spans. Both of these bridges have precast concrete baluster sections with reinforced masonry piers and precast caps. These bridges are in good overall condition.



Photo 13 - Marina East two-span bridge



Photo 14 - Marina East single span bridge

The bridges are typically in good condition with minimal deterioration of the major components. Minor deterioration of the pavement is present on some bridges and some evidence of inadequate expansion and contraction is visible in the curbs, gutters, walks or parapets. Uneven pavement at abutments has allowed some minor damage to the concrete. Incomplete pavement in areas will allow some pavement wear and damage.



Photo 15 - Deflection in bridge at mid span is cracking the parapet



Photo 16 - Damage to the abutment at expansion joint

Concrete Flatwork. The concrete flatwork includes the cart paths, community sidewalks, pavilion and gazebo pads, and mailbox pads. The Association maintains a large inventory of concrete flatwork. The planned completion of the development and the turn over of future villages to the HOA will continue to increase the inventory of concrete flatwork. The table below is believed to reflect the areas that are currently the HOA's responsibility and the approximate quantities and estimated ages.

The overall condition of the concrete flatwork is good with some areas of defects.

ESTIMATED QUANTITY OF CONCRETE FLATWORK (2009)		
Location (description)	Approximate Area (sq. ft.)	Approximate Age (years)
Recreation Center Parking and Drives	36,780	5
Baycreek Parkway, Palmer Drive and Nicklaus Drive cart paths	118,000	7



Photo 17 - View of sidewalk at Recreation Center



Photo 18 - Typical view of cart path along roadways

The defects noted include the following:

- Cracking. There are multiple sections of the concrete flatwork that have cracked creating trip hazards.
- Heaving/Settlement. Sections of the concrete flatwork have heaved or settled relative to their adjacent sections, creating trip hazards.
- Scaling and Flaking. Several sections of the concrete flatwork are scaling and flaking. Scaling and flaking is the loss of the surface mortar in concrete. It is typically caused by water freezing within the concrete. Once started, scaling and flaking can be expected to continue to grow as a result of exposure of the concrete to freeze-thaw cycles. These scaled sections are creating trip hazards.
- Lack of Expansion Joints. Sections of the concrete flatwork were installed without a proper expansion joint between it and the adjacent sections of concrete. As a result, the edges of the concrete are breaking off, creating trip hazards.
- Poor Drainage. There are some areas where water is ponding on the concrete flatwork due to settlement of the flatwork or poor drainage of the surrounding area.



Photo 19 - Minor sections show poor drainage



Photo 20 - Minor sections show scaling and flaking



Photo 21 - Minor portions are broken or have been removed



Photo 22 - Some walks have significant cracks

The standards we used for recommending replacement are as follows:

1. Trip hazard, 0.5 inch height difference.
2. Severe cracking.
3. Severe spalling
4. Uneven riser heights on steps.
5. Steps with risers in excess of 8.25 inches.

Because it is highly unlikely that all of the community's concrete components will fail and require replacement in the period of the study, we have programmed funds for the replacement of 60% of the inventory and spread those funds over a 60-year timeframe to reflect the incremental nature of this work. This approach assumes a failure rate of 1% per year.

Quantities are estimated from to-scale construction plans provided and may not reflect precise as-built conditions.

Curb and Gutter. The Association maintains a large inventory of concrete curb and gutter. The planned completion of the development and the turn over of future villages to the HOA will continue to increase the inventory of curb & gutter. The table below is believed to reflect the areas that are currently the HOA's responsibility and the approximate quantities and estimated ages.

ESTIMATED QUANTITY OF CONCRETE CURB & GUTTER (2009)		
Location (description)	Approximate Quantity (linear ft.)	Average Approximate Age (years)
Recreation Center Parking and Drives	2,385	5
Baycreek Parkway	14,128	9
Palmer Drive	7,200	8
Nicklaus Drive	4,800	7
Heron Pointe Village	9,195	5
Signature Village	12,184	8

New Quarter Village	8,879	6
Hollies Village	8,975	5
Plantation Pointe	8,077	4
Marina East Village	12,145	3
The Colony Village	5,094	3
Fig Street	Excluded	
Kings Bay Village	Excluded	
Fairways Village	Excluded	
Bayside Village	Excluded	

All components have been well maintained and are in excellent condition. Any problems noted are in the form of minor cracks, spalling or settlement that can be repaired by continued periodic replacement of broken sections



Photo 23 - Typical concrete curb & gutter



Photo 24 - Typical curb only

Because it is highly unlikely that all of the community's concrete curb and gutter sections will fail and require replacement in the period of the study, we have programmed funds for the replacement of 60% of the inventory and spread those funds over a 60 year timeframe to reflect the incremental nature of this work. This approach assumes a failure rate of 1% per year.

Quantities are estimated from to-scale construction plans provided and may not reflect precise as-built conditions.

Quantities are estimated from to-scale construction plans provided and may not reflect precise as-built conditions.

Concrete Brick Pavers. The planned completion of the development and the turn over of future villages to the HOA will continue to increase the inventory of concrete pavers. The table below is believed to reflect the areas that are currently the HOA's responsibility and the approximate quantities and estimated ages.

PROPOSED FUTURE QUANTITIES OF PAVER (as estimated from drawings)		
Location (description)	Approximate Area (sq. ft.)	Approximate Age (years)
Marina East Village (approx. 50% of total shown on drawings)	32,080 x 50% = 16,040	3
The Colony Village (approx. 15% of total shown on drawings)	22,374 x 15% = 3,356	3
Fig Street	Excluded	
Kings Bay Village	Excluded	
Fairways Village	Excluded	
Bayside Village	Excluded	

In the future the HOA will maintain a significant inventory of concrete pavers that are part of the community's sidewalks or roadways and parking. Upon review of the site plans it is evident that not all of the proposed paver walks are installed. It is estimated that less than 15% of the total for selected areas (The Colony) are installed at this time, whereas some other areas (Marina East) may have more than 50% installed. We have only included a fraction of the planned quantity in the current study inventory. Future updates should verify the completion of additional pavers as the development is completed.



Photo 25 - Paver walks within the Fig Street right of way are excluded



Photo 26 - Typical paver walkway is six feet wide, some are up to 10 feet

The overall condition of these pavers is good, with no significant deficiencies. With time and exposure to traffic, it can be expected that portions of the pavers will settle or become damaged.



Photo 27 - The Colony mail box parking area is concrete pavers



Photo 28 - The majority of Colony paver walks are not complete

Because it is highly unlikely that all of the community's concrete pavers will fail and require replacement in the period of the study, we have programmed funds for the replacement of 30% of the inventory and spread those funds over a 30 year timeframe for concrete pavers to reflect the incremental nature of this work.

Quantities are estimated from to-scale construction plans provided and may not reflect precise as-built conditions.

Breakwaters. There are eight stone breakwaters located on the bay side of Bay Creek Villages extending roughly north-south – these breakwaters are understood to be privately owned and not part of the HOA. There are seven stone breakwaters located on the bayside of Colony and the Marina that are reported to be part of the HOA. These breakwaters are all approximately the same size and configuration using a large rip rap. Due to the rather permanent nature of these installed shore protection, no funds are included for replacement. However, rip rap can shift over time with tidal surges and currents under extended periods of time including normal and abnormal beach migration. These items should be inspected periodically in the future by an engineer with shoreline protection expertise to evaluate possible subsidence or displacement of stone and scouring of sand.



Photo 29 - Typical rip rap breakwater



Photo 30 - Breakwaters should not need to be replaced and are excluded

Wood Beach Access Ramps. There are two five-foot wide on-grade wood boardwalks from the street to the beach within the Colony. These walks include seating areas with wood benches. The walks terminate at the dune line with small steps and hand rails to access the beach. All of these components are in good overall condition.

These walks are constructed of a very durable South American lumber with stainless screws and should provide 30 years (or more) of service before requiring replacement unless damaged.



Photo 31 - Typical beach access in The Colony, these are in good condition



Photo 32 - Beach access includes benches



Photo 33 - Beach access includes small steps and hand rails

Brick Entry Monuments. The main entrance to the Bay Creek development features several brick masonry site walls with piers and columns. The walls are typically reinforced multi-wythe and bonded brick and the piers and columns are typically reinforced CMU with a brick veneer and precast concrete capitols. These features have an indefinite life span but will require periodic repointing of mortar joints, replacement of deterioration expansion joint sealants and possible resetting of precast caps.



Photo 34 - Main entry brick site walls and columns and piers



Photo 35 - Brick and precast capitols are in good condition



Photo 36 - Marina East entrance



Photo 37 - Marina East entrance

Aluminum Perimeter Fence. There is an extensive amount of aluminum picket ornamental fencing used throughout the community. The planned completion of the development and the turn over of future villages to the HOA will continue to increase the inventory of aluminum fence. The table below is believed to reflect the areas that are currently the HOA's responsibility and the measured quantities and estimated ages.

Most of this fence is four-foot tall and some smaller sections (36-inch or 42-inch) are used in conjunction with brick walls. The majority of this fencing is in good overall condition. There are numerous instances of minor damage, such as bent or broken posts and pickets, missing post caps or spear tips, and some leaning sections.



Photo 38 - Pool enclosure fence

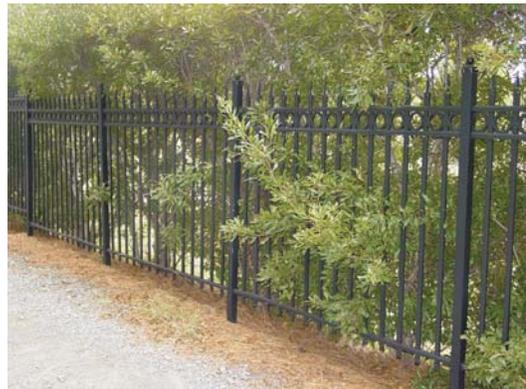


Photo 39 - Typical fence along road and cart paths

ESTIMATED QUANTITY OF FENCE (2009) (as measured on site or from site plans)		
Location (or description)	Approximate Quantity (linear feet)	Approximate Age
Marina East Cemetery Plot	180	2
Marina East Village	3,976	2
The Colony Village	825	3
Pool Fence	595	4
Along Bay Creek Pkwy from Blue Heaven Rd. toward the south	637	6
Along Bay Creek Pkwy from Blue Heaven Rd. toward the north	523	6
Along Bay Creek Pkwy from the pump house north to New Quarter	825	6
Along Bay Creek Pkwy from the pump house south	715	6
Along Bay Creek Pkwy from Churchill to the Gatehouse	241	6
At the main entrance gate house area	174	7
From the gatehouse out to and along Rte. 642	1,336	7
Along Palmer Drive from Bay Creek Pkwy toward the east	510	6
Along Palmer Drive from Old Course Loop toward the west (includes both sides of the road)	835 779	6
Along Palmer Drive from Arnies Loop toward the east (includes both sides of the road)	805 554	6



Photo 40 - Typical fence at main entrance



Photo 41 - Overgrowth is causing fence sections to lean



Photo 42 - Example of damaged pickets



Photo 43 - Example of damaged or missing fence spear points

The fencing is of various ages and will require partial replacement spread over 20-30 years. There is also a small quantity of replacement anticipated annually to replace damaged portions.

Mailboxes and Shelter. There are cluster mailboxes located within the Colony Village community that are in good condition, with no rust on any units. These mailboxes are located under a generously sized shelter that provides suitable protection from rain and sun. We have assumed that when the mailboxes are replaced, fiberglass units will be installed.



Photo 44 - View of the Colony mail box shelter

Site Lighting. The Association is responsible for the operation of the community's street lights. The lighting system was not on at the time of our site visits. We understand that the lighting system is in good operating condition. There are two distinct types of lights used in the various communities. The study indicates the number of lights that were present when the site visits were conducted. It is believed that future lighting is to be installed in several areas as development progress continues.



Photo 45 - Typical street light in the Bay Creek Villages



Photo 46 - Typical street light in the Colony and Marina East

Small landscape accent lighting is not included and should be replaced on an as-needed basis. The accent and area lighting provided at gatehouses or entrance features are included with those larger items in the inventory.

ESTIMATED QUANTITY OF STREET LIGHTS (2009) (as counted on site)		
Location or Description	Quantity (each)	Approximate Age
Along Bay Creek Pkwy from Rte. 642 to Palmer Drive	23	7
Along Bay Creek Pkwy from Palmer Drive to Rte. 642	23	7
Along Bay Creek Pkwy from Nicklaus to Palmer Drive	16	7
Along Bay Creek Pkwy from Palmer to Nicklaus Drive	15	7
Along Palmer Drive from Bay Creek Pkwy to the Rec Center	3	5
Along Palmer Drive from Bay Creek Pkwy to Signatures	6	5
Along Palmer Drive from Fairways to Bay Creek Pkwy	7	5
Colony Drive & Sunset Blvd Drive (includes the cul de sacs)	6	4
Bahama Road (including the traffic circle)	17	3
Bridgeton Drive	7	3
Waters Edge Drive	6	3
Charlestowne Drive	5	3

There are 13 light poles in the Fig Street right of way that are excluded.

Water Features (Heron Pointe). The entrance to Heron Point features a large cascading water fall, upper pond and stream that drain into a large lower pond. This water feature is driven by a 20 horsepower 2,000 gallon per minute pump. The pump motor is reported to have been refurbished within the past few years.



Photo 47 - View of the Heron Pointe fountain feature

Bronze Sculptures (Main Entrance & Heron Pointe). The community currently includes three bronze sculptures. These items will have an indefinite life if not stolen, damaged or vandalized. However, a line item is included for refurbishing of these to preserve and repair (if necessary). Actual replacement values of these should be included with community insurance coverage.



Photo 48 - Main entrance bronze sculpture



Photo 49 - Bronze plaque



Photo 50 - One of the Heron Pointe sculptures



Photo 51 - One of the Heron Pointe bronze sculptures

Signage. Community signage that is the HOA's responsibility includes the main entrance signage, street and traffic signage. Most of this signage is relatively new and in good condition with minor weathering only and no obvious damage or deterioration. Signage is typically replaced on an as need basis and the inventory includes only a small portion for periodic partial replacement.



Photo 52 - Main entrance signage



Photo 53 - Plantation Point signage

Each of the primary villages entrance has a brick site wall with a carved granite stone panel sign. Carved stone plaques and signage set on selected piers (and bridge parapets) have a gold leaf finish that shows wear. These will typically require a periodic refurbishing.



Photo 54 - Typical signage at village entrance



Photo 55 - Carved granite sign panels should last indefinitely



Photo 56 - Gold leaf fill on signs and joint sealants will require refurbishing



Photo 57 - Typical street and traffic signs in the main community



Photo 58 - Typical street and traffic sign in the Colony & Marina East



Photo 59 - Miscellaneous information signage

BUILDING EXTERIORS AND INTERIORS

Bay Creek Village Gatehouse. The main entrance to bay creek includes a modest sized manned gate house constructed with brick veneer a simulated slate shingle roof, large column supported front porch and canopy covered increase and egress lanes. The exteriors appear to be in good overall condition.



Photo 60 - Front view of gate house



Photo 61 - Rear view of gate house

The interior of the gate house includes a counter top in the guard room, counters, cabinets and small appliances in the kitchenette and bathroom. The building is heated with a small resistance heater under the guard desk and has a ductless AC unit mounted in the ceiling over the desk with a compressor outdoors.



Photo 62 - Guard house rest room



Photo 63 - Ductless AC unit is operating but needs cleaning



Photo 64 - View of main guard house room



Photo 65 - Compressor is in good overall condition



Photo 66 - View of main entrance gates



Photo 67 - Closed circuit cameras



Photo 68 - Gate operators are in fair condition



Photo 69 - Entry gates require periodic refurbishing and repair for damage

The gates are typically 13-foot wide aluminum picket swing gates with a mechanical arm operator. There is a close circuit camera system that includes 4 cameras and a key pad entry panel.

The Colony Gatehouse and Pergolas. The main entrance to the Colony includes a small guard house that is unmanned. This structure is constructed with painted fiber cement siding and trim and a metal standing seam roof. There are several small clerestory windows and three larger ground floor windows and a single personnel door. This building is only partially finished and furnished on the interior and therefore no finishes are included at this time.



Photo 70 - Gate house at the Colony entrance



Photo 71 - Typical pergola at the Colony entrance

There are four wooden drop arm gates at this gate house each operated by a gear drive motor operator in a small metal housing. This entrance includes a single closed circuit camera that is connected back to the main gate house computer work station. Inbound traffic is provided with a key pad panel and outbound traffic operates the gates via proximity sensors.



Photo 72 - Closed circuit camera



Photo 73 - Key pad entry control is relatively new

The gate house entrance is flanked with two modest sized pergola structures of similar materials.

Marina Village East Gatehouse and Pavilions. The Bahama Road entrance to the Marina East Village includes a tall but modest sized gate house. This gate house is not currently manned but is intended for manning in the future. The exterior of the building features numerous windows and is painted fiber cement siding with a masonry water table and a standing seam metal roof.



Photo 74 - View of the Marina East gate house



Photo 75 - View of the site walls at the main entrance

The interior is partially finished and partially furnished. The sheet vinyl flooring is in poor condition and indicates moisture infiltration. The toilet room includes a small vanity. The space is heated and cooled with a PTAC unit.



Photo 76 - The gate house interiors are not completed



Photo 77 - The gate house rest room

There is a small pavilion structure near the gate house and a second pavilion structure at the corner of Washington and Fig Street. These are similarly sized and constructed with standing seam metal roofs and painted columns and soffits.



Photo 78 - Pavilion on Bahama Road



Photo 79 - Pavilion at the corner of Fig and Washington

Gazebo and Arbors (Plantation Pointe). There is a large heavy timber framed gazebo overlooking the BMP at the entrance to Plantation Pointe. This structure is 12 sided and features a standing seam copper roof, gutters & downspouts, windows around the cupola and painted balusters and columns. This gazebo is in good overall condition and with regular maintenance the major components should provide 40 years of normal life.



Photo 80 - The gazebo is in good overall condition

There is a sidewalk causeway across the pond that includes 12 painted metal arched arbors. These arbors support flowering vines and are beginning to show minor corrosion. Periodic refurbishing to remove rust and recoat the arbors should allow them to have a 30-plus year economic life.



Photo 81 - Metal arbors will require refurbishing

Pool Cabana. The pool cabana building provides a pool equipment room, a small office, a storage room and men's and women's toilets and showers. This building has a simulated slate roof and painted fiber cement siding and trim. Painted metal exterior doors show minor rust. The windows are in good condition.



Photo 82 - The pool cabana building is in good overall condition



Photo 83 - Plumbing fixtures and toilet partitions are in good condition

Mechanical and plumbing includes a hot water heater & mop sink in the storage room, toilets, vanities and shower fixtures and a PTAC unit in the office. The plumbing fixtures are in good overall condition as are the toilet partitions. Quarry tile finishes in the toilet rooms are in good condition. VCT flooring in the storage and office is in good condition.



Photo 84 - Showers are in good condition



Photo 85 - The hot water heater is oversized for the facility



Photo 86 - A PTAC is provided in the office



Photo 87 - Small space heaters are provided in the storage and pump equipment rooms

RECREATIONAL FACILITIES

Swimming Pool. The community operates an outdoor pool and wading pool of concrete construction with a concrete deck. The concrete deck is coated. The pool was winterized at the time of the site visit so some assumptions are made as to conditions based upon age or reported by the Bay Creek representative that escorted the analyst.



Photo 88 - The main pool and concrete deck



Photo 89 - The wading pool

The square shaped wading pool is 18' x 18' and the larger pool is an irregular square shape that is approximately 80' x 80'. The large pool holds approximately 143,000 gallons of water.

Listed below are the major components of the pool facilities:

- **Pool Shell.** The shell for the swimming pool is in good condition. Pool shells normally have a finite life of approximately 45 years. At that time it may not be necessary to replace the entire structure. However, it is prudent to anticipate a major expenditure for replacement of underground lines and sections of the pool. Based on our research, we have found it to be prudent to program \$40 per square foot of pool surface to cover these needs.
- **Pool Deck.** The pool has a concrete deck. The overall condition of the deck is good. Because it is highly unlikely that all of the community's concrete pool deck sections will fail and require replacement at the same time, we have divided the deck into 5 equal components in the Reserve Analysis and have spread their replacement over a 30 year period.
- **Pool Deck Coating.** The concrete pool deck is coated with an elastomeric coating. The coating is in good condition. We have assumed a service life for the coating of ten years.
- **Whitecoat.** The pool whitecoat is reported to be in good condition and the wading pool white coat is in fair condition. We have assumed a service life of 10 years for the pool whitecoat.
- **Coping.** The pool is edged with masonry coping. The coping is in good condition.
- **Waterline Tile.** The waterline tile is in good condition. We have assumed that the waterline tile will be replaced or restored when the pool is whitecoated.

- Pump and Filter System. The pumps and filters are original. Pump motors are reported to have been replaced or refurbished. The filter system is in good operating condition – the sand is scheduled to be replaced in the coming year. We have assumed a service life of 20 years for the filter system, and 10 years for the pump. There is one large pump for the main pool and a smaller pump for the wading pool. There are three sand filters for the larger pool and a smaller filter for the wading pool.

Future proposed shade shelters should be added when completed.



Photo 90 - Pumps and filters are in good overall condition

Tennis Courts. The community maintains two tennis courts. The overall condition of these courts is good. Listed below are the major components of the tennis court facilities:

- Asphalt Pavement. The asphalt pavement for the tennis court is in good condition with no cracks and splits that extend into the playing surface. We have assumed a service life of 20 years for the asphalt.
- Color Coat. The color coat on the tennis courts is in fair condition with some fading and wear visible in its finish.
- Fencing. The fencing installed around the tennis courts is chain link and in good condition. There were no noted defects. We have assumed that the fencing will be replaced when the asphalt pavement is replaced.
- Net Posts. The net posts are in fair condition. We have assumed that the new posts will be replaced when the asphalt pavement is replaced.



Photo 91 - Tennis courts are in good overall condition

Two future proposed tennis courts should be added when completed.

FUTURE FACILITIES

The community is far from being complete, and all of the planned or proposed site improvements and amenities are not constructed and many have not been started. The timeline for this “build-out” is dependent on market conditions and demand for residents. Some of the known planned improvements that may become part of the HOA in the future include the following:

- Two more tennis courts
- Shade structures at the pool area
- Wellness Center
- Fitness Facility
- Golf Academy
- Carousel
- Beach Club
- Site improvements for Bayside Village
- Entry gates and controls at Marina East

Asphalt pavement at Marina East
Extension and completion of paver walks at Colony and Marina East

Future updates to this reserve study should reflect the addition of any one items as the become part of the HOA's responsibility for replacement.

EXCLUDED FACILITIES

The following items were excluded from the HOA as directed by the Manager. If any of these items are excluded in error please advise for revision.

Golf Course(s) in its entirety (practice course, putting greens, driving range, etc)
Golf Club, Pro Shop, Restaurant, Cart Storage, Cart Paths
Pump Stations and back-up generators
Communications Building, antenna and back-up generator
Water mains and laterals, sanitary sewer mains and laterals
Storm water infrastructure and ponds
Irrigation (unless noted otherwise)
All improvements and buildings within the Fairways Condominium
All improvements and buildings within the Kings Bay Village
All improvements and buildings within the Bayside Village
The breakwaters
The replica lighthouse
Fig Street right of way

This Condition Assessment is based upon our visual survey of the property. The sole purpose of the visual survey was an evaluation of the common elements of the property to ascertain the remaining useful life and the replacement costs of these common elements. Our evaluation assumed that all components met building code requirements in force at the time of construction. Our visual survey was conducted with care by experienced persons, but no warranty or guarantee is expressed or implied.

End of Condition Assessment

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1. COMMON INTEREST DEVELOPMENTS - AN OVERVIEW

Over the past 40 years, the responsibility for community facilities and infrastructure around many of our homes has shifted from the local government to Community Associations. Thirty years ago, a typical new town house abutted a public street on the front and a public alley on the rear. Open space was provided by a nearby public park and recreational facilities were purchased ala carte from privately owned country clubs, swim clubs, tennis clubs, and gymnasiums. Today, 60% of all new residential construction, i.e. townhouses, single family homes, condominiums, and cooperatives, is in Common Interest Developments (CID). In a CID, a home owner is bound to a Community Association that owns, maintains, and is responsible for periodic replacements of various components that may include the roads, curbs, sidewalks, playgrounds, street lights, recreational facilities, and other community facilities and infrastructure.

The growth of Community Associations has been explosive. In 1965 there were only 500 Community Associations in the United States. According to the U.S. Census, there were 130,000 Community Associations in 1990. Community Associations Institute (CAI), a national trade association, estimates there were more than 200,000 Community Associations in the year 2000, and that the number of Community Associations will continue to multiply.

The shift of responsibility for billions of dollars of community facilities and infrastructure from the local government and private sector to Community Associations has generated new and unanticipated problems. Although Community Associations have succeeded in solving many short term problems, many Associations have failed to properly plan for the tremendous expenses of replacing community facilities and infrastructure components. When inadequate replacement reserve funding results in less than timely replacements of failing components, home owners are exposed to the burden of special assessments, major increases in Association fees, and a decline in property values.

2. REPLACEMENT RESERVE STUDY

The purpose of a Replacement Reserve Study is to provide the Association with an inventory of the common community facilities and infrastructure components that require periodic replacement, a general view of the condition of these components, and an effective financial plan to fund projected periodic replacements. The Replacement Reserve Study consists of the following:

- Replacement Reserve Study Introduction. The introduction provides a description of the property, reviews the intent of the Replacement Reserve Study, and lists documents and site evaluations upon which the Replacement Reserve Study is based.
- Section A Replacement Reserve Analysis. Many components owned by the Association have a limited life and require periodic replacement. Therefore it is essential the Association have a financial plan that provides funding for the timely replacement of these components in order to protect the safety, appearance, and value of the community. In conformance with American Institute of Certified Public Accountant guidelines, Section A Replacement Reserve Analysis evaluates the current funding of Replacement Reserves as reported by the Association and recommends annual funding of Replacement Reserves by two generally accepted accounting methods; the Cash Flow Method and the Component Method. Section A Replacement Reserve Analysis includes graphic and tabular presentations of these methods and current Association funding.
- Section B Replacement Reserve Inventory. The Replacement Reserve Inventory lists the commonly-owned components within the community that require periodic replacement using funding from Replacement Reserves. The Replacement Reserve Inventory also provides information about components excluded from the Replacement Reserve Inventory whose replacement is not scheduled for funding from Replacement Reserves.

Replacement Reserve Inventory includes estimates of the normal economic life and the remaining economic life for those components whose replacement is scheduled for funding from Replacement Reserves.
- Section C Projected Annual Replacements. The Calendar of Projected Annual Replacements provides a year-by-year listing of the Projected Replacements based on the data in the Replacement Reserve Inventory.
- Section D Condition Assessment. Several of the items listed in the Replacement Reserve Inventory are discussed in more detail. The Condition Assessment includes a narrative and photographs that document conditions at the property observed during our visual evaluation.
- Section E Attachments. The Appendix is provided as an attachment to the Replacement Reserve Study. Additional attachments may include supplemental photographs to document conditions at the property and additional information specific to the property cited in the Conditions Assessment (i.e. Consumer Product Safety Commission, Handbook for Public Playground Safety, information on segmental retaining walls, manufacturer recommendations for asphalt shingles or siding, etc).

3. METHODS OF ANALYSIS

The Replacement Reserve industry generally recognizes two different methods of accounting for Replacement Reserve Analysis. Due to the difference in accounting methodologies, these methods lead to different calculated values for the Minimum Annual Contribution to the Reserves. The results of both methods are presented in this report. The Association should obtain the advice of its accounting professional as to which method is more appropriate for the Association. The two methods are:

- **Component Method.** This method is a time tested mathematical model developed by HUD in the early 1980s. It treats each item in the replacement schedule as an individual line item budget. Generally, the Minimum Annual Contribution to Reserves is higher when calculated by the Component Method. The mathematical model for this method works as follows:

First, the total Current Objective is calculated, which is the reserve amount that would have accumulated had all of the items on the schedule been funded from initial construction at their current replacement costs. Next, the Reserves Currently on Deposit (as reported by the Association) are distributed to the components in the schedule in proportion to the Current Objective. The Minimum Annual Deposit for each component is equal to the Estimated Replacement Cost, minus the Reserves on Hand, divided by the years of life remaining.

- **Cash Flow Method.** The Cash Flow Method is sometimes referred to as the "Pooling Method." It calculates the minimum constant annual contribution to reserves (Minimum Annual Deposit) required to meet projected expenditures without allowing total reserves on hand to fall below the specified minimum level in any year. This method usually results in a calculated requirement for annual contribution somewhat less than that arrived at by the Component Method of analysis.

First, the Minimum Recommended Reserve Level to be Held on Account is determined based on the age, condition, and replacement cost of the individual components. The mathematical model then allocates the estimated replacement costs to the future years in which they are projected to occur. Based on these expenditures, it then calculates the minimum constant yearly contribution (Minimum Annual Deposit) to the reserves necessary to keep the reserve balance at the end of each year above the Minimum Recommended Reserve Level to be Held on Account. The Cash Flow Analysis assumes that the Association will have authority to use all of the reserves on hand for replacements as the need occurs. This method usually results in a Minimum Annual Deposit which is less than that arrived at by the Component Method.

- **Adjusted Cash Flow Analysis.** This program has the ability to modify the Cash Flow Method to take into account forecasted inflation and interest rates, thereby producing an Adjusted Cash Flow Analysis. Attempting to forecast future inflation and interest rates and the impact of changing technology is highly tenuous. Therefore, in most cases it is preferable to make a new schedule periodically rather than attempt to project far into the future. We will provide more information on this type of analysis upon request.

4. REPLACEMENT RESERVE STUDY DATA

- **Identification of Reserve Components.** The Reserve Analyst has only two methods of identifying Reserve Components; 1) information provided by the Association and 2) observations made at the site. It is important that the Reserve Analyst be provided with all available information detailing the components owned by the Association. It is our policy to request such information prior to bidding on a project and to meet with the individuals responsible for maintaining the community after acceptance of our proposal. After completion of the Study, the Study should be reviewed by the Board of Directors, individuals responsible for maintaining the community, and the Association's accounting professionals. We are dependent upon the Association for correct information, documentation, and drawings.

- **Unit Costs.** Unit costs are developed using nationally published standards and estimating guides and are adjusted by state or region. In some instances, recent data received in the course of our work is used to modify these figures.

Contractor proposals or actual cost experience may be available as part of the Association records. This is useful information which should be incorporated into your report. Please bring any such available data to our attention, preferably before the report is commenced.

- **Replacement vs. Repair and Maintenance.** A Replacement Reserve Study addresses the required funding for Capital Replacement Expenditures. This should not be confused with operational costs or cost of repairs or maintenance.

5. DEFINITIONS

Adjusted Cash Flow Analysis. Cash flow analysis adjusted to take into account annual cost increases due to inflation and interest earned on invested reserves. In this method, the annual contribution is assumed to grow annually at the inflation rate.

Annual Deposit if Reserves Were Fully Funded. Shown on the Summary Sheet A1 in the Component Method summary, this would be the amount of the Annual Deposit needed if the Reserves Currently on Deposit were equal to the Total Current Objective.

Cash Flow Analysis. See Cash Flow Method, above.

Component Analysis. See Component Method, above.

Contingency. An allowance for unexpected requirements. Roughly the same as the Minimum Recommended Reserve Level to be Held on Account used in the Cash Flow Method of analysis.

Critical Year. In the Cash Flow Method, a year in which the reserves on hand are projected to fall to the established minimum level. See Minimum Recommended Reserve Level to be Held on Account.

Current Objective. This is the reserve amount that would have accumulated had the item been funded from initial construction at its current replacement cost. It is equal to the estimated replacement cost divided by the estimated economic life, times the number of years expended (the difference between the Estimated Economic Life and the Estimated Life Left). The Total Current Objective can be thought of as the amount of reserves the Association should now have on hand based on the sum of all of the Current Objectives.

Cyclic Replacement Item. A component item that typically begins to fail after an initial period (Estimated Initial Replacement), but which will be replaced in increments over a number of years (the Estimated Replacement Cycle). The Reserve Analysis program divides the number of years in the Estimated Replacement Cycle into five equal increments. It then allocates the Estimated Replacement Cost equally over those five increments. (As distinguished from Normal Replacement Items, see below)

Estimated Economic Life. Used in the Normal Replacement Schedules. This represents the industry average number of years that a new item should be expected to last until it has to be replaced. This figure is sometimes modified by climate, region, or original construction conditions.

Estimated Economic Life Left. Used in the Normal Replacement Schedules. Number of years until the item is expected to need replacement. Normally, this number would be considered to be the difference between the Estimated Economic Life and the age of the item. However, this number must be modified to reflect maintenance practice, climate, original construction and quality, or other conditions. For the purpose of this report, this number is determined by the Reserve Analyst based on the present condition of the item relative to the actual age.

Estimated Initial Replacement. For a Cyclic Replacement Item (see above), the number of years until the replacement cycle is expected to begin.

Estimated Replacement Cycle. For a Cyclic Replacement Item, the number of years over which the remainder of the component's replacement occurs.

Minimum Annual Deposit. Shown on the Summary Sheet A1. The calculated requirement for annual contribution to reserves as calculated by the Cash Flow Method (see above).

Minimum Deposit in the Study Year. Shown on the Summary Sheet A1. The calculated requirement for contribution to reserves in the study year as calculated by the Component Method (see above).

Minimum Recommended Reserve Level to be Held on Account. Shown on the Summary Sheet A1, this number is used in the Cash Flow Method only. This is the prescribed level below which the reserves will not be allowed to fall in any year. This amount is determined based on the age, condition, and replacement cost of the individual components. This number is normally given as a percentage of the total Estimated Replacement Cost of all reserve components.

Normal Replacement Item. A component of the property that, after an expected economic life, is replaced in its entirety. (As distinguished from Cyclic Replacement Items, see above.)

Normal Replacement Schedules. The list of Normal Replacement Items by category or location. These items appear on pages designated.

Number of Years of the Study. The number of years into the future for which expenditures are projected and reserve levels calculated. This number should be large enough to include the projected replacement of every item on the schedule, at least once. This study covers a 40-year period.

One Time Deposit Required to Fully Fund Reserves. Shown on the Summary Sheet A1 in the Component Method summary, this is the difference between the Total Current Objective and the Reserves Currently on Deposit.

Reserves Currently on Deposit. Shown on the Summary Sheet A1, this is the amount of accumulated reserves as reported by the Association in the current year.

Reserves on Hand. Shown in the Cyclic Replacement and Normal Replacement Schedules, this is the amount of reserves allocated to each component item in the Cyclic or Normal Replacement schedules. This figure is based on the ratio of Reserves Currently on Deposit divided by the total Current Objective.

Replacement Reserve Study. An analysis of all of the components of the common property of the Association for which a need for replacement should be anticipated within the economic life of the property as a whole. The analysis involves estimation for each component of its estimated Replacement Cost, Estimated Economic Life, and Estimated Life Left. The objective of the study is to calculate a recommended annual contribution to the Association's Replacement Reserve Fund.

Total Replacement Cost. Shown on the Summary Sheet A1, this is total of the Estimated Replacement Costs for all items on the schedule if they were to be replaced once.

Unit Replacement Cost. Estimated replacement cost for a single unit of a given item on the schedule.

Unit (of Measure). Non-standard abbreviations are defined on the page of the Replacement Reserve Inventory where the item appears. The following standard abbreviations are used in this report:

EA: each FT: feet LS: lump sum PR: pair SF: square feet SY: square yard

6. LIST OF RECOMMENDED REPAIRS - PROCEDURES

A List of Recommended Repairs is offered as a supplemental report to the Replacement Reserve Study (at an additional fee) to assist the Association in understanding the financial implications of all items owned by the Association, not just the items included for funding by Replacement Reserves listed in the Replacement Reserve Inventory. The following information relates to the List of Recommended Repairs:

- Repair costs. Cost range estimates given in the repair list assume that all work by a given trade will be done together as a single project. If repairs are done piece-meal, the costs would be significantly higher. The costs of any repairs to be funded out of the Reserve Fund should be subtracted from the Reserves Currently on Deposit figure. The Board or Property Manager should coordinate this decision with the Reserve Analyst as part of the revision process.
- Completion of repairs. The Replacement Reserve Analysis assumes that all repairs cited in the Repair List will be completed within a twelve-month period of time. Estimated Life Left in the Replacement Reserve Study has been factored under this assumption. Any deletions or delays of the projects included in the List of Recommended Repairs may result in major inaccuracies in the Replacement Reserve Analysis.
- Safety issues. If safety issues have been cited, they should be given the highest priority and should be done immediately upon receipt of this report. The Board must recognize that from a liability standpoint, they have been made aware of the existence of these unsafe conditions, if any, once the report is delivered for their review.
- Unit costs. Nationally published standards and standard estimating manuals have been used in the development of this report. Contractor proposals or actual cost experience may be available as part of the Association records. We will adjust our figures to conform to your experience if the material or information is disclosed to us and/or made available for our use.

ARTICLES OF INCORPORATION
OF
BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

Article 1. NAME OF CORPORATION: The name of the corporation is Bay Creek at Cape Charles Community Association, Inc. (the "Association").

Article 2. PRINCIPAL OFFICE: The initial principal office of the Association is:

1217 Laskin Road
Virginia Beach, Virginia 23451

Article 3. REGISTERED AGENT AND OFFICE: The initial registered office of the corporation is 1217 Laskin Road, Virginia Beach, Virginia 23451, and the initial registered agent at such address is Virginia S. Sancilio., who is a Director of the corporation.

Article 4. APPLICABLE STATUTE: The corporation is organized pursuant to the provisions of the Virginia Nonstock Corporation Act.

Article 5. DEFINITIONS: All capitalized terms used herein which are not defined shall have the same meaning as set forth in the Declaration of Covenants, Conditions, and Restrictions for Bay Creek at Cape Charles, recorded or to be recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia, as the same may be amended and supplemented ("Declaration").

Article 6. PURPOSES AND POWERS: The Association does not contemplate pecuniary gain or profit, direct or indirect, to its members. The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the Virginia Nonstock Corporation Act.

(a) By way of explanation and not of limitation, the purposes for which the Association is formed are:

(i) to be and constitute the Association to which reference is made in the Declaration, to perform all obligations and duties of the Association, and to exercise all rights and powers of the Association, as specified therein, in the By-Laws of Bay Creek at Cape Charles Community Association, Inc. ("By-Laws"), and as provided by law, and

(ii) to provide an entity for the furtherance of the interests of the Owners (as such term is defined in the Declaration) in the development.

(b) In furtherance of its purposes, the Association shall have the following powers, which, unless indicated otherwise in the Declaration or By-Laws, may be exercised by the Board of Directors:

(i) all of the powers conferred upon nonprofit corporations by common law and the statutes of the State of Virginia in effect from time to time;

(ii) all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the By-Laws, or the Declaration, including, without limitation, the following:

(A) to fix and to collect assessments or other charges to be levied;

(B) to manage, control, operate, maintain, repair, and improve property subjected to the Declaration or any other property for which the Association by rule, regulation, declaration, covenant to share costs, or contract has a right or duty to provide such services;

(C) to enforce covenants, conditions, or restrictions affecting any property to the extent the Association may be authorized to do so under the Declaration or By-Laws;

(D) to engage in activities which will actively foster, promote, and advance the common interests of all owners of property subject to the Declaration;

(E) to buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate, and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Association;

(F) to borrow money for any purpose;

(G) to enter into, make, perform, or enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other association, corporation, or other entity or agency, public or private;

(H) to act as agent, trustee, or other representative of other corporations, firms, or individuals, and as such to advance the business or ownership interests in such corporations, firms, or individuals;

(I) to adopt, alter, and amend or repeal such By-Laws as may be necessary or desirable for the proper management of the affairs of the Association pursuant to the terms thereof; provided, however, such By-Laws may not be inconsistent with or contrary to any provisions of the Declaration; and

(J) to provide any and all supplemental municipal services as may be necessary or proper.

(c) The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article 6 are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provisions of this Article 6.

Article 7. BOARD OF DIRECTORS: The business and affairs of the Association shall be conducted, managed, and controlled by a Board of Directors. The initial Board of Directors shall consist of three directors.

The names and addresses of the members of the initial Board of Directors, who shall hold office until their successors are elected and have qualified, or until their resignation or removal, are as follows:

Richard S. Foster
1100 Eaglewood Drive
Virginia Beach, VA 23454

Virginia S. Sancilio
1217 Laskin Road
Virginia Beach, VA 23451

Robin Hirsch
1217 Laskin Road
Virginia Beach, VA 23451

The number of directors; method of election, removal, and filling of vacancies on the Board of Directors; and the term of office of directors shall be as set forth in the By-Laws. The Board may delegate its operating authority to such corporations, individuals, and committees as it, in its discretion, may determine.

Article 8. INDEMNIFICATION OF DIRECTORS AND OFFICERS: To the extent consistent with the Virginia Nonstock Corporation Act, as it exists on the date hereof or as it may hereafter be amended, the Association shall indemnify its officers and directors as required by the Declaration and By-Laws. No amendment to or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any director of the Association for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

Article 9. MEMBERSHIP: The Association shall be a membership corporation without certificates or shares of stock. Each Person who is the Owner of a Unit (as such capitalized terms are defined in the Declaration) subject to the Declaration is a member and shall be entitled to vote as set forth herein and in the Declaration and the By-Laws.

Article 10. CERTIFICATES: The Association shall be a corporation without shares of stock and shall not be required to issue membership certificates.

Article 11. DURATION: The Association shall have perpetual duration

Article 12. MERGER AND CONSOLIDATION: The Association may merge or consolidate only upon a resolution duly adopted by the Board of Directors, the affirmative vote of Voting Members representing not less than two-thirds (2/3) of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists.

Article 13. DISSOLUTION: The Association may be dissolved only upon a resolution duly adopted by the Board of Directors, the affirmative vote of Voting Members representing not less than two-thirds (2/3) of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists.

In the event of dissolution, liquidation, or winding up of the Association, the Association's assets shall be dedicated to a public body or conveyed to a nonprofit organization with similar purposes.

Article 14. AMENDMENTS: These Articles may be amended only upon a resolution duly adopted by the Board of Directors, the affirmative vote of Voting Members representing not less than two-thirds (2/3) of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists. However, no Voting Members shall be entitled to vote on any amendment to these Articles which the Board of Directors may adopt for the sole purpose of complying with the requirements of any governmental or quasi-governmental entity or institutional lender authorized to fund, insure, or guarantee mortgages on individual Units, as such requirements may exist from time to time.

Article 15. VA/HUD APPROVAL: So long as the Class "B" membership exists, the following actions shall require the prior approval of the U.S. Department of Veterans Affairs ("VA"), so long as the Properties are approved by VA for the guaranteeing of Mortgages in the Properties, and the U.S. Department of Housing and Urban Development ("HUD"), so long as the Properties are approved by HUD for the insuring of Mortgages in the Properties: annexation of additional property to the Properties, except for annexation by Declarant in accordance with Section 9.1 of the Declaration pursuant to a plan of annexation previously approved by VA and/or HUD, as applicable; mergers, consolidations, or dissolution of the Association; mortgaging of Common Area (as such term is defined in the Declaration); dedication of Common Area to any public entity; and amendment of these Articles of Incorporation.

Article 16. INCORPORATOR: The name and address of the incorporator is as follows:

Vahn Chang
Hyatt & Stubbiefield, P.C.
1200 Peachtree Center, South Tower
225 Peachtree Street, N.E.
Atlanta, Georgia 30303

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation on the 14th day of December, 1999.

Vahn Chang
Vahn Chang, Incorporator

Commonwealth of Virginia



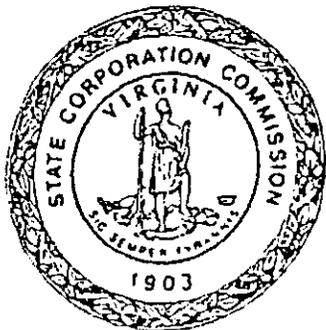
STATE CORPORATION COMMISSION

Richmond, January 10, 2000

This is to Certify that the certificate of incorporation of

**Bay Creek at Cape Charles Community Association,
Inc.**

*was this day issued and admitted to record in this office and that
the said corporation is authorized to transact its business subject
to all Virginia laws applicable to the corporation and its business.
Effective date: January 10, 2000*



State Corporation Commission

Attest:

Joel H. Beck

Clerk of the Commission

#00316 File 730

Exhibit "D"

BY-LAWS

OF

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

TABLE OF CONTENTS

Article I Name, Principal Office, and Definitions 1

 1.1. Name 1

 1.2. Principal Office 1

 1.3. Definitions 1

Article II Membership: Meetings, Quorum, Voting, Proxies 1

 2.1. Membership 1

 2.2. Place of Meetings 1

 2.3. Annual Meetings 2

 2.4. Special Meetings 2

 2.5. Notice of Meetings 2

 2.6. Waiver of Notice 2

 2.7. Adjournment of Meetings 3

 2.8. Voting 3

 2.9. Proxies 3

 2.10. Majority 4

 2.11. Quorum 4

 2.12. Conduct of Meetings 4

 2.13. Action Without a Meeting 4

Article III Board of Directors: Selection, Meetings, Powers 4

 A. Composition and Selection 4

 3.1. Governing Body; Composition 4

 3.2. Number of Directors 5

 3.3. Directors During Class "B" Control Period 5

 3.4. Nomination and Election Procedures 5

 3.5. Election and Term of Office 6

 3.6. Removal of Directors and Vacancies 7

 B. Meetings 8

 3.7. Organizational Meetings 8

 3.8. Regular Meetings 8

 3.9. Special Meetings 8

 3.10. Notice; Waiver of Notice 9

 3.11. Telephonic Participation in Meetings 9

 3.12. Quorum of Board 9

 3.13. Conduct of Meetings 10

 3.14. Open Meetings; Executive Session 10

 3.15. Action Without a Formal Meeting 10

C. Powers and Duties.....10

 3.16. Powers.....10

 3.17. Duties.....11

 3.18. Compensation.....12

 3.19. Right of Class "B" Member to Disapprove Actions.....12

 3.20. Management.....13

 3.21. Accounts and Reports.....13

 3.22. Borrowing.....14

 3.23. Right To Contract.....14

 3.24. Enforcement.....14

 3.25. Board Standards.....15

Article IV Officers.....16

 4.1. Officers.....16

 4.2. Election and Term of Office.....16

 4.3. Removal and Vacancies.....16

 4.4. Powers and Duties.....16

 4.5. Resignation.....17

 4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc.....17

 4.7. Compensation.....17

Article V Committees.....17

 5.1. General.....17

 5.2. Covenants Committee.....17

 5.3. Neighborhood Committees.....17

Article VI Miscellaneous.....18

 6.1. Fiscal Year.....18

 6.2. Parliamentary Rules.....18

 6.3. Conflicts.....18

 6.4. Books and Records.....18

 6.5. Notices.....19

 6.6. Amendment.....20

BY-LAWS
OF
BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

Article I
Name, Principal Office, and Definitions

1.1. Name.

The name of the corporation is Bay Creek at Cape Charles Community Association, Inc. (the "Association").

1.2. Principal Office.

The principal office of the Association shall be located in Northampton County, Virginia. The Association may have such other offices, either within or outside the State of Virginia, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. Definitions.

The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that certain Recorded Declaration of Covenants, Conditions, and Restrictions for Bay Creek at Cape Charles, as it may be amended (the "Declaration"), unless the context indicates otherwise.

Article II
Membership: Meetings, Quorum, Voting, Proxies

2.1. Membership.

The Association shall have two classes of membership, Class "A" and Class "B," as more fully set forth in the Declaration. The provisions of the Declaration pertaining to membership are incorporated by this reference.

2.2. Place of Meetings.

Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate.

2.3. Annual Meetings.

The first meeting of the Association, whether a regular or special meeting, shall be held within one year after the date of incorporation of the Association. Meetings shall be of the Voting Members unless otherwise required by Virginia law or specified by the Board. Subsequent regular annual meetings shall be set by the Board so as to occur during the third quarter of the Association's fiscal year on a date and at a time set by the Board.

2.4. Special Meetings.

The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by Voting Members representing at least 10% of the total Class "A" votes of the Association.

2.5. Notice of Meetings.

Written or printed notice stating the place, day, and hour of any meeting of the Voting Members shall be delivered, either personally or by mail, to each Voting Member entitled to vote at such meeting, not less than 10 nor more than 60 days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the Voting Member at his or her address as it appears on the Association's records, with postage prepaid.

Notwithstanding the foregoing, notice of any meeting for the purpose of considering an amendment to the Articles, a plan of merger, a proposed sale of assets pursuant to Virginia Code §13.1-900, or the dissolution of the Association, shall be given in accordance with Virginia Code §13.1-842.

2.6. Waiver of Notice.

Waiver of notice of a meeting of the Voting Members shall be deemed the equivalent of proper notice. Any Voting Member may waive, in writing, notice of any meeting of the Voting Members, either before or after such meeting. Attendance at a meeting by a Voting Member shall be deemed waiver by such Voting Member of notice of the time, date, and place thereof, unless such Voting Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings.

If any meeting of the Association cannot be held because a quorum is not present, a majority of the Voting Members who are present at such meeting may adjourn the meeting to a time not less than 5 nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Voting Members in the manner prescribed for regular meetings.

Voting Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Members to leave less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.8. Voting.

The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such voting rights provisions are specifically incorporated by this reference.

2.9. Proxies.

Voting Members may not vote by proxy but only in person or through their designated alternates; provided, however, any Voting Member who is only entitled to cast the vote(s) for his or her own Unit(s) pursuant to Section 6.4 of the Declaration may cast such vote in person or by proxy until such time as the Board first calls for election of a Voting Member to represent the Neighborhood of which the Unit is a part. On any matter as to which a Member is entitled personally to cast the vote for his or her Unit, such vote may be cast in person or by proxy, subject to the limitations of Virginia law relating to the use of general proxies and subject to any specific provision to the contrary in the Declaration or these By-Laws.

Every proxy shall be in writing specifying the Unit for which it is given, signed by the Member or his or her duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

Every proxy shall be revocable and shall automatically cease upon: (a) conveyance of any Unit for which it was given, (b) receipt by the Secretary of a written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person, or (c) 11 months from the date of the proxy, unless a shorter period is specified in the proxy.

2.10. Majority.

As used in these By-Laws, the term "majority" shall mean those votes, Owners, or other group as the context may indicate totaling more than 50% of the total eligible number.

2.11. Quorum.

Except as otherwise provided in these By-Laws or in the Declaration, the presence of Voting Members representing a majority of the total Class "A" votes in the Association shall constitute a quorum at all Association meetings.

2.12. Conduct of Meetings.

The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13. Action Without a Meeting.

Any action required or permitted by law to be taken at a meeting of the Voting Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by the Voting Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Voting Members entitled to vote thereon were present. Such consents shall be signed within 60 days after receipt of the earliest dated consent, dated, and delivered to the Association. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Voting Members at a meeting. Within 10 days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Voting Members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

Article III

Board of Directors: Selection, Meetings, Powers

A. Composition and Selection.

3.1. Governing Body; Composition.

The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one vote. Except with respect to directors appointed by the Class "B" Member, directors shall be Members or residents; provided, however, no Owner and resident representing the same Unit may serve on the Board at the same time. A "resident" shall be any natural person 18 years of age or older whose principal residence is a Unit within the Properties. If a Member is not a natural person, any officer, director, partner, or trust officer of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association

signed by such Member; provided, no Member may have more than one such representative on the Board at a time, except in the case of directors appointed by the Class "B" Member.

3.2. Number of Directors.

The Board shall consist of three to seven directors, as provided in Sections 3.3 and 3.5 below. The initial Board shall consist of three directors as identified in the Articles of Incorporation.

3.3. Directors During Class "B" Control Period.

Directors appointed by the Class "B" Member pursuant to Section 3.5 of these By-Laws shall be appointed by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member.

3.4. Nomination and Election Procedures.

(a) Nominations and Declarations of Candidacy. Prior to each election of directors, the Board shall prescribe the opening date and the closing date of a reasonable filing period in which each and every eligible person who has a bona-fide interest in serving as a director may file as a candidate for any position to be filled by Class "A" votes. The Board shall also establish such other rules and regulations as it deems appropriate to conduct the nomination of directors in a fair, efficient, and cost-effective manner. Nominations also may be permitted from the floor.

Except with respect to directors selected by the Class "B" Member, nominations for election to the Board may also be made by a Nominating Committee. The Nominating Committee, if any, shall consist of a Chairperson, who shall be a member of the Board, and three or more Members or representatives of Members, with at least one representative from each Voting Group. Members of the Nominating Committee shall be appointed by the Board not less than 30 days prior to each annual meeting to serve a term of one year and until their successors are appointed, and such appointment shall be announced in the notice of each election.

The Nominating Committee may make as many nominations for election to the Board as it shall, in its discretion, determine. In making its nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity which exists within the pool of potential candidates.

Each candidate shall be given a reasonable, uniform opportunity to communicate his or her qualifications to the Members and Voting Members and to solicit votes.

(b) Election Procedures. Each Voting Member may cast all votes assigned to the Units which it represents for each position to be filled from the slate of candidates on which such Voting Member is entitled to vote. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

3.5. Election and Term of Office.

Except as these By-Laws may otherwise specifically provide, election of directors shall take place at the Association's annual meeting. Notwithstanding any other provision of these By-Laws:

(a) Within 30 days after the time that Class "A" Members other than Builders own 25% of the Units permitted by the Master Plan for the property described in Exhibits "A" and "B" of the Declaration, or whenever the Class "B" Member earlier determines, the President shall call for an election by which the Voting Members shall be entitled to elect one of the three directors, who shall be an at-large director. The remaining two directors shall be appointees of the Class "B" Member. The director elected by the Voting Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (b), whichever is shorter. If such director's term expires prior to the happening of the event described in subsection (b), a successor shall be elected for a like term.

(b) Within 30 days after the time that Class "A" Members other than Builders own 50% of the Units permitted by the Master Plan for the property described in Exhibits "A" and "B" of the Declaration, or whenever the Class "B" Member earlier determines, the Board shall be increased to five directors. The President shall call for an election by which the Voting Members shall be entitled to elect two of the five directors, who shall serve as at-large directors. The remaining three directors shall be appointees of the Class "B" Member. Directors elected by the Voting Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (c) below, whichever is shorter. If such directors' terms expire prior to the happening of the event described in subsection (c) below, successors shall be elected for a like term.

(c) Within 90 days after termination of the Class "B" Control Period, the President shall call for an election by which the Voting Members shall be entitled to elect three of the five directors, who shall serve as at-large directors. The remaining two directors shall be appointees of the Class "B" Member. Directors elected by the Voting Members shall not be subject to removal by the Class "B" Member and shall serve until the first annual meeting following the termination of the Class "B" Control Period. If such annual meeting is scheduled to occur within 90 days after termination of the Class "B" Control Period, this subsection shall not apply and directors shall be elected in accordance with subsection (d) below.

(d) Not later than the first annual meeting after the termination of the Class "B" Control Period, the Board shall be increased to seven directors and an election shall be held. Six directors shall be elected by the Voting Members, with an equal number of directors elected by the Voting Members representing each Voting Group and any remaining directorships filled at large by the vote of all Voting Members. Three directors shall serve a term of two years and three directors shall serve a term of one year, as such directors determine among themselves.

Until termination of the Class "B" membership, the Class "B" Member shall be entitled to appoint one director. Upon termination of the Class "B" membership, the director elected by the

Class "B" Member shall resign and the remaining directors shall be entitled to appoint a director to serve until the next annual meeting, at which time the Voting Members shall be entitled to elect a director to fill such position. Such director shall be elected for a term of two years.

Upon expiration of the term of office of each director elected by the Voting Members, Voting Members entitled to elect such director shall be entitled to elect a successor to serve a term of two years. Directors elected by the Voting Members shall hold office until their respective successors have been elected.

Diagram 3.1 illustrates the concept of transition of control of the Board of Directors.

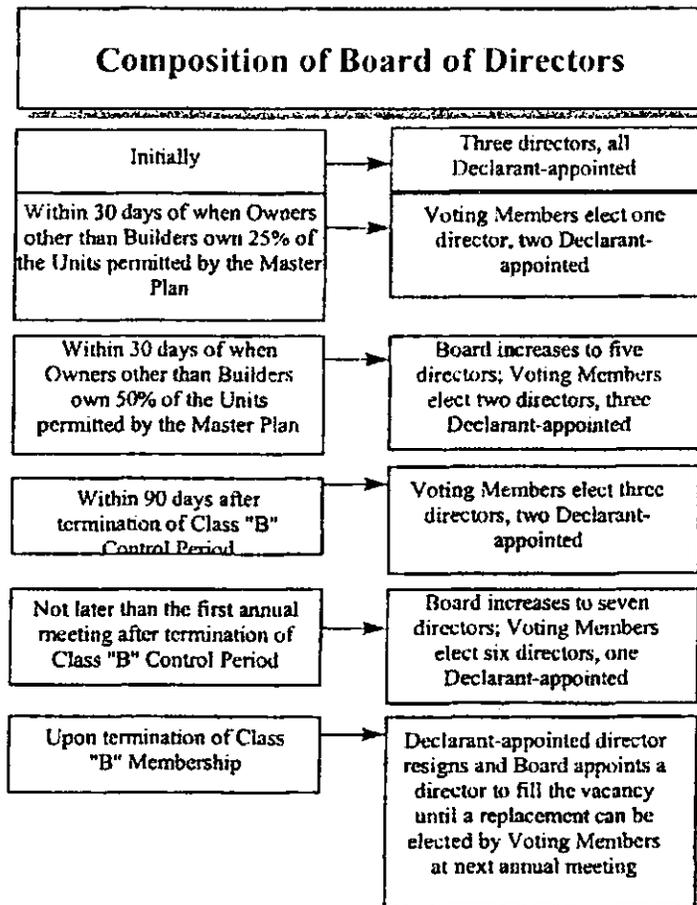


Diagram 3.1 - Composition of Board of Directors

3.6. Removal of Directors and Vacancies.

Any director elected by the Voting Members may be removed, with or without cause, by the vote of Voting Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Voting

Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by the Voting Members who has three consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent (or is the representative of a Member who is so delinquent) in the payment of any assessment or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and the Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of a director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Voting Members entitled to fill such directorship may elect a successor for the remainder of the term.

Any director whom the Board appoints shall be selected from among Members within the Voting Group represented by the director who vacated the position.

This Section shall not apply to directors appointed by the Class "B" Member nor to any director serving as Declarant's representative. The Class "B" Member or Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director appointed by or elected as a representative of the Class "B" Member or Declarant.

B. Meetings.

3.7. Organizational Meetings.

The first meeting of the Board following each annual meeting of the Voting Members shall be held within 10 days thereafter at such time and place as the Board shall fix.

3.8. Regular Meetings.

Regular meetings of the Board may be held at such time and place as a majority of the directors shall determine, but at least four such meetings shall be held during each fiscal year with at least one per quarter.

3.9. Special Meetings.

Special meetings of the Board shall be held when called by written notice signed by the President or Vice President or by any two directors.

3.10. Notice; Waiver of Notice.

(a) Notices of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The notice shall be given to each director by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile, computer, fiberoptics, or other electronic communication device, with confirmation of transmission. All such notices shall be given at the director's telephone number, fax number, electronic mail address, or sent to the director's address as shown in the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least five business days before the date set for the meeting. Notices given by personal delivery, telephone, facsimile, electronic mail, or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

(b) Transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11. Telephonic Participation in Meetings.

Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this Section shall constitute presence in person at such meeting.

3.12. Quorum of Board.

At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any Board meeting cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than 5 nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.13. Conduct of Meetings.

The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.14. Open Meetings; Executive Session.

(a) Subject to the provisions of Section 3.14(b) and Virginia Code §55-510, as it may be amended, all Board meetings shall be open to all Members, but attendees other than directors may not participate in any discussion or deliberation unless a director requests that they be granted permission to speak. In such case, the President may limit the time any such individual may speak.

(b) Notwithstanding the above, upon a motion in an open meeting to assemble in executive session, which motion states the purpose for the executive session and is approved by majority vote of the Board, the President may adjourn any meeting of the Board and reconvene in executive session, and may exclude persons other than directors, to consult with legal counsel, to discuss matters of a sensitive nature, such as contracts, potential or pending litigation, personnel matters, matters involving violations or alleged violations of the Governing Documents, and matters involving the personal liability of a Member to the Association. The Board shall restrict discussions during any executive session to those specific matters stated in the motion. No action agreed upon in executive session shall become effective unless the Board reconvenes in an open meeting to take a vote on such matter, the substance of which shall be reasonably identified in the open meeting. Nothing herein shall require the disclosure of information in violation of law.

3.15. Action Without a Formal Meeting.

Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.16. Powers.

The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents, and as provided by law. The Board may do or cause to be done on behalf of the Association all acts and things except those which the Governing Documents or Virginia law require to be done and exercised exclusively by the Voting Members or the membership generally.

3.17. Duties.

Duties of the Board shall include, without limitation:

- (a) preparing and adopting, in accordance with the Declaration, an annual budget and establishing each Owner's share of the Common Expenses and any Neighborhood Expenses;
- (b) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility consistent with the Community-Wide Standard;
- (c) designating, hiring, and dismissing personnel necessary to carry out the Association's rights and responsibilities and where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (d) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve funds may be deposited, in the Board's best judgment, in depositories other than banks;
- (e) making and amending use restrictions and rules in accordance with the Declaration;
- (f) opening bank accounts on behalf of the Association and designating the signatories required;
- (g) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declaration and these By-Laws;
- (h) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the Association's obligation in this regard shall be conditioned in the manner provided in the Declaration;
- (i) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the costs thereof, and filing and adjusting claims, as appropriate;
- (j) paying the cost of all services rendered to the Association;
- (k) keeping books with detailed accounts of the Association's receipts and expenditures;
- (l) making available to any prospective purchaser of a Unit, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Governing

Documents and all other books, records, and financial statements of the Association as provided in Section 6.4;

(m) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties;

(n) indemnifying a director, officer, or committee member, or former director, officer, or committee member of the Association to the extent such indemnity is required by Virginia law, the Articles of Incorporation, or the Declaration; and

(o) assisting in the resolution of disputes between Owners and others without litigation, as set forth in the Declaration.

3.18. Compensation.

Directors shall not receive any compensation from the Association for acting as such. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested director.

3.19. Right of Class "B" Member to Disapprove Actions.

So long as the Class "B" membership exists, the Class "B" Member shall have a right to disapprove any action, policy, or program of the Association, the Board, and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of Declarant or Builders under the Declaration or these By-Laws, interfere with development or construction of any portion of the Properties, or diminish the level of services being provided by the Association.

(a) Notice. The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board, or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, which notice complies as to Board meetings with Sections 3.8, 3.9, 3.10, and 3.11 and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting.

(b) Opportunity to be Heard. The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No action, policy, or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

The Class "B" Member, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the applicable committee. The Class "B" Member, acting through any officer, director, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, the Board, or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.20. Management.

The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy-making authority. Declarant or its affiliate may be employed as managing agent or manager.

The Board may delegate to one of its members the authority to act on the Board's behalf on all matters relating to the duties of the managing agent or manager, if any, which might arise between Board meetings.

The Association shall not be bound, either directly or indirectly, by any management contract executed during the Class "B" Control Period unless such contract contains a right of termination exercisable by the Association, with or without cause and without penalty, at any time after termination of the Class "B" Control Period upon not more than 90 days' written notice.

3.21. Accounts and Reports.

The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- (a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm or entity providing goods or services to the Association shall be disclosed promptly to the Board; and

(f) an annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines, by an independent public accountant; provided, upon written request of any holder, guarantor, or insurer of any first Mortgage on a Unit, the Association shall provide an audited financial statement.

3.22. Borrowing.

The Association shall have the power to borrow money for any legal purpose; provided, the Board shall obtain Voting Member approval in the same manner provided in Section 8.4 of the Declaration for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 10% of the Association's budgeted gross expenses for that fiscal year.

3.23. Right To Contract.

The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or Neighborhood and other owners or residents associations, within and outside the Properties. Any common management agreement shall require the consent of a majority of the Board.

3.24. Enforcement.

The Association shall have the power, as provided in the Declaration, to impose sanctions for any violation of the Governing Documents. To the extent specifically required by the Declaration, the Board shall comply with the following procedures prior to imposition of sanctions:

(a) Notice. The Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing to the Board or the Covenants Committee, if one has been appointed pursuant to Article V; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 10 days of the notice. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided the Board or the Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted 10-day period, the hearing shall be held before the Covenants Committee, or if none has been appointed, then before the Board in executive session. The Covenants Committee or Board shall provide at least 14 days' prior written notice to the alleged violator of the date, time, and location of the hearing. Proof of proper notice shall be placed in the minutes of the hearing. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the hearing. The alleged violator shall be afforded a reasonable opportunity to be heard and may be represented by counsel at the hearing. The minutes of the hearing shall contain a written statement of the results of the hearing and the sanction, if any, imposed. Written notice of the decision reached and the sanction imposed, if any, shall be sent to the alleged violator within 5 days after the hearing.

(c) Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board. To exercise this right, a written notice of appeal must be received by the Association's manager, President, or Secretary within 10 days after the hearing date.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, towing vehicles that violate parking rules) or, following compliance with the dispute resolution procedures set forth in Article XV of the Declaration, if applicable, by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorneys' fees actually incurred. Any entry onto a Unit for purposes of exercising this power of self-help shall not be deemed as trespass.

3.25. Board Standards.

While conducting the Association's business affairs, the Board shall be protected by the business judgment rule. The business judgment rule protects a director from personal liability so long as the party claiming liability does not prove that the director failed to: (a) serve

in a manner the director believes to be in the best interests of the Association and the Members; (b) serve in good faith; or (c) act with such care as an ordinarily prudent person in a like position would use under similar circumstances.

In fulfilling its governance responsibilities, the Board's actions shall be governed and tested by the rule of reasonableness. The Board shall exercise its power in a fair and nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.

Operational standards of the Board and any committee appointed by the Board shall be the requirements set forth in the Governing Documents or the minimum standards which Declarant, the Board, and the Architectural Review Committee may establish. Such standard shall, in all cases, meet or exceed the standards set by Declarant and the Board during the Class "B" membership. Operational standards may evolve as the needs and demands of the Properties change.

Article IV **Officers**

4.1. Officers.

Officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The President and Secretary shall be elected from among Board members; other officers may, but need not be Board members. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office.

The Board shall elect the Association's officers at the first Board meeting following each annual meeting of the Voting Members, to serve until their successors are elected.

4.3. Removal and Vacancies.

The Board may remove any officer whenever in its judgment the best interests of the Association will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

4.4. Powers and Duties.

The Association's officers shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for preparation of the budget as provided for in the

Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5. Resignation.

Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, acceptance of such resignation shall not be necessary to make it effective.

4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc.

All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by Board resolution.

4.7. Compensation.

Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.18.

Article V
Committees

5.1. General.

The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

5.2. Covenants Committee.

In addition to any other committees which the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at least three and no more than seven Members. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions which the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.24 of these By-Laws.

5.3. Neighborhood Committees.

In addition to any other committees appointed as provided above, each Neighborhood which has no formal organizational structure or association may elect a Neighborhood Committee to determine the nature and extent of services, if any, to be provided to the Neighborhood by the Association in addition to those provided to all Members of the

Association in accordance with the Declaration. A Neighborhood Committee may advise the Board on any other issue but shall not have the authority to bind the Board. Such Neighborhood Committees, if elected, shall consist of three to five Members, as determined by the vote of at least 51% of the Owners of Units within the Neighborhood.

Neighborhood Committee members shall be elected for a term of one year or until their successors are elected. Any director elected to the Board from a Neighborhood shall be an *ex officio* member of the Neighborhood Committee. The Voting Member representing such Neighborhood shall be the chairperson of the Neighborhood Committee, shall preside at its meetings, and shall be responsible for transmitting any and all communications to the Board.

In the conduct of its duties and responsibilities, each Neighborhood Committee shall abide by the notice and quorum requirements applicable to the Board under Sections 3.8, 3.9, 3.10, and 3.11. Meetings of a Neighborhood Committee shall be open to all Owners of Units in the Neighborhood and their representatives. Members of a Neighborhood Committee may act by unanimous written consent in lieu of a meeting.

Article VI Miscellaneous

6.1. Fiscal Year.

The Association's fiscal year shall be the calendar year unless the Board establishes a different fiscal year by resolution.

6.2. Parliamentary Rules.

Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceedings when not in conflict with Virginia law or the Governing Documents.

6.3. Conflicts.

If there are conflicts among the provisions of Virginia law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Virginia law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

6.4. Books and Records.

(a) Inspection by Members and Mortgagees. Except as otherwise specifically provided in this Section 6.4, any Member, any holder of a first Mortgage on a Unit, or the duly appointed representative of any of the foregoing, shall have the right to examine and copy the books and records maintained by the Association, including the Governing Documents, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees. Such right may be exercised only for a purpose reasonably related to the requesting party's interest in a Unit. The Association's membership roster shall not be used for purposes of commercial solicitation.

Notwithstanding the above, the Association's books and records may be withheld from inspection and copying to the extent that they concern:

- (i) personnel matters or a person's medical records;
- (ii) communications with legal counsel or attorney work product;
- (iii) transactions currently in negotiation and agreements containing confidentiality requirements;
- (iv) pending litigation;
- (v) pending matters involving enforcement of the Governing Documents;
- (vi) disclosure of information in violation of law; or
- (vii) minutes or other records of Board meetings held in executive session pursuant to Section 3.14 of these By-Laws.

Such right of inspection may be exercised only during reasonable business hours or at another mutually convenient time, and upon five days' prior written notice to the Board. The Board may impose and collect a charge, reflecting its actual costs of materials and labor, prior to providing copies of any books and records under this Section. The Board shall provide for such inspection to take place at the Association's office or at such other place within the Properties as the Board shall designate.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the Association's expense.

6.5. Notices.

Except as otherwise provided in the Declaration or these By-Laws, all notices, demands, bills, statements, or other communications under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member or Voting Member, at the address which the Member or Voting Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member or Voting Member;

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section; or

(c) if to any committee, at the principal address of the Association or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

6.6. Amendment.

(a) By Class "B" Member. Prior to the conveyance of the first Unit by Declarant to a Person other than a Builder, the Class "B" Member may unilaterally amend these By-Laws. Thereafter, the Class "B" Member may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary: (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; or (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; provided, however, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing.

So long as the Class "B" membership exists, the Class "B" Member may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any right of any Member, and such amendments shall be subject to disapproval by the U.S. Department of Housing and Urban Development and/or the U.S. Department of Veterans Affairs if either such agency is insuring or guaranteeing residential loans within the Properties.

(b) By Members Generally. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 51% of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon Recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its Recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant, the Class "B" Member, or the assignee of such right or privilege.

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Bay Creek at Cape Charles Community Association, Inc., a Virginia corporation;

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 1st day of February, 2000.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 1st day of February, 2000.

Virginia S. Samudio [SEAL]
Secretary

5346.01/CADocs/VC

INSTRUMENT #000000213
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
FEBRUARY 3, 2000 AT 03:14PM
KENNETH F. ARNOLD, CLERK

BY: *Traci Bjal*

(DC)

000355

This Deed is exempt from recordation taxes pursuant to Section 58.1-811(10) of the Code of Virginia, 1950, As Amended, inasmuch as it is a conveyance to a limited liability company from a grantor entitled to receive more than fifty percent of the profits of such limited liability company.

THIS DEED, Made this 23rd day of February, 2000, by and between BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation, party of the first part, GRANTOR; and BAY CREEK, L.L.C., a Virginia limited liability company, party of the second part, GRANTEE, address: 1100 Eaglewood Drive, Virginia Beach, Virginia 23454.

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid, and other good and valuable considerations, the receipt of which is hereby acknowledged, the said GRANTOR does hereby grant and convey, with General Warranty and the English Covenants of Title, unto the said GRANTEE, the following described property, to-wit:

PARCEL ONE: ALL THOSE CERTAIN lots, pieces or parcels of land, with the buildings and improvements thereon and the appurtenances and rights, including riparian rights, thereunto belonging, situate, lying and being in Northampton County, Virginia, designated as "COURSE PARCEL 1A-9A", "COURSE PARCEL 2B-4B", "COURSE PARCEL 1B, 5B-9B", "COURSE PARCEL 1C-9C", "COURSE PARCEL 1D-8D", "COURSE PARCEL 9D", "GOLF ACADEMY PARCEL", "PRACTICE RANGE PARCEL", "CLUBHOUSE PARCEL", "MAINTENANCE FACILITY PARCEL", "COMMUNITY CENTER PARCEL", "ROAD PARCEL-1", "ROAD PARCEL-2", "PARCEL H", "PARCEL I", "PARCEL O", "PARCEL F", "PARCEL G", "PARCEL K", "PARCEL K-K", and "ROAD PARCEL 3", on that certain plat entitled "SUBDIVISION OF BAY CREEK AT CAPE CHARLES PHASE TWO & AMENDED SUBDIVISION OF BAY CREEK AT CAPE CHARLES PHASE ONE FOR BAYMARK CONSTRUCTION CORPORATION, REF. D.B. 177, PG. 431, M.B. 26, PG. 49, M.B. 26, PG. 62, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", dated February 25, 1999, prepared by the TAF Group, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 27, at pages 26 through 43.

PARCEL TWO: ALL THAT CERTAIN lot, tract, piece or parcel of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in Northampton County, Virginia, designated as "PARCEL B", on the plat entitled "SUBDIVISION OF PROPERTY OF BETTY JEAN F. MARTIN D.B. 160, PG. 287, D.B. 113, PG. 482 (PLAT), FOR BROWN & ROOT, INC." dated April 14, 1998, prepared by the TAF Group, recorded in the Clerk's Office aforesaid in Plat Book 26, at page 2.

PARCEL THREE: ALL THOSE CERTAIN lots, pieces or parcels of land situate, lying and being in the Town of Cape Charles, Virginia as Lots 176 and 177, as shown on the plat entitled "MAP OF THE TOWN OF CAPE CHARLES", which plat is recorded in the Clerk's Office aforesaid in Deed Book 41, at pages 483, 484 and 485.

*Consolvo, Markowitz
& Webb*
4500 COLUMBIA LOOP
VIRGINIA BEACH, VIRGINIA 23462

PARCEL FOUR: ALL THOSE CERTAIN lots, pieces or parcels of land situate, lying and being in the so-called Sea Cottage Addition to the Town of Cape Charles, Virginia as Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9 in Block 11 and Lots 91, 92, 93, 94, 95, 96 and 97 and also that certain area situate on the East side of Bay Avenue between Mason Avenue and Randolph Avenue containing by survey Seventeen One Hundredths of an acre (0.17 Ac) and described in Deed Book 93 at page 395, all in Block 2, which plat is of record in the Clerk's Office aforesaid in Deed Book 65, page 181.

PARCEL FIVE: ALL THOSE CERTAIN lots, pieces or parcels of land designated as Lots 1, 2, 3, 4, 5, 6 and 7 and Lots 17, 18, 19, 20, 21, 22 and part of 23, in Block A and Lots 24 through 39, Lots 47 through 60, and Lots 65, 66 and 67, in Block B and Lots 31 and 32 on the south side of Monroe Avenue extended and Lots 44A through 49A, inclusive, on the North side of Monroe Avenue extended, as shown on plat entitled "Sub-Division of The Estate of Mathilde Townsend Welles, Dec'd., East End-Cape Charles, Northampton County, Virginia", said plat recorded in the Clerk's Office aforesaid in Map Book 5 at page 184.

IT BEING the same property conveyed to the Grantor by deeds dated July 2, 1999 and duly recorded in the said Clerk's Office in Deed Book 311, at page 510 and Deed Book 311, at Page 516.

This conveyance is expressly made subject to the reservations, covenants, restrictions and/or easements of record, if any, affecting the aforesaid property and constituting constructive notice.

IN WITNESS WHEREOF, BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation, has caused this instrument to be executed in its name by its duly authorized President.

BAYMARK CONSTRUCTION CORPORATION

By: Richard S. Foster
Richard S. Foster, President

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State, do hereby certify that Richard S. Foster, as President of Baymark Construction Corporation, a Virginia corporation, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 24th day of February, 2000.

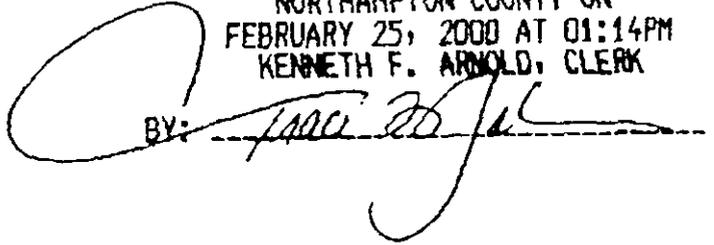
*Carolee Markowitz
& Will*
6500 COLLINGS LOOP
VIRGINIA BEACH, VIRGINIA 23462

Cynthia Sue Beaman
Notary Public

My Commission Expires: June 30, 2003



INSTRUMENT #000000355
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
FEBRUARY 25, 2000 AT 01:14PM
KENNETH F. ARNOLD, CLERK

BY:  (DC)

REPLACEMENT RESERVES

An itemization of the funds being reserved for future replacement costs. A reserve study is recommended every three to five years. This study will ensure that adequate funding is being reserved for the association's future capital expenditures and replacement costs.

000213

BOOK 316 PAGE 555

Upon recording, please return to:

Virginia S. Sancilio
Progressive Realty
1217 Laskin Road
Virginia Beach, Virginia 23451

GRANTOR: Baymark Construction Corporation
1100 Eaglewood Drive
Virginia Beach, Virginia 23454

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

BAY CREEK AT CAPE CHARLES

Preparation by:

HYATT & STUBBLEFIELD, P.C.
Attorneys and Counselors
1200 Peachtree Center, South Tower
225 Peachtree Street, N.E.
Atlanta, Georgia 30303

TABLE OF CONTENTS

	<u>PAGE</u>
PART ONE: INTRODUCTION TO THE COMMUNITY	1
Article I Creation of the Community.....	1
1.1. Purpose and Intent.....	1
1.2. Binding Effect.	1
1.3. Governing Documents.....	2
Article II Concepts and Definitions	3
PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS	8
Article III Use and Conduct	8
3.1. Framework for Regulation.	8
3.2. Rule Making Authority.	8
3.3. Owners' Acknowledgment and Notice to Purchasers.....	9
3.4. Protection of Owners and Others.	10
Article IV Architecture and Landscaping.....	11
4.1. General.	11
4.2. Architectural Review.....	11
4.3. Guidelines and Procedures.	13
4.4. No Waiver of Future Approvals.....	15
4.5. Variances.....	15
4.6. Limitation of Liability.....	15
4.7. Certificate of Compliance.	16
Article V Maintenance and Repair	16
5.1. Maintenance of Units and Private Amenities.....	16
5.2. Maintenance of Neighborhood Property.....	17
5.3. Marina Maintenance.....	17
5.4. Responsibility for Repair and Replacement.....	18
PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION	18
Article VI The Association and its Members	18
6.1. Function of Association.	18
6.2. Membership.....	19
6.3. Voting.....	19
6.4. Neighborhoods, Voting Members, and Voting Groups.	20
Article VII Association Powers and Responsibilities	23
7.1. Acceptance and Control of Association Property.	23
7.2. Maintenance of Area of Common Responsibility.....	23
7.3. Insurance.	24

7.4. Compliance and Enforcement.....	28
7.5. Implied Rights; Board Authority.....	30
7.6. Indemnification of Officers, Directors, and Others.....	30
7.7. Safety and Security.....	31
7.8. Powers of the Association Relating to Neighborhood Associations.....	31
7.9. Provision of Services.....	32
7.10. Relationship with Other Properties.....	32
7.11. Facilities and Services Open to the Public.....	32
Article VIII Association Finances.....	32
8.1. Budgeting and Allocating Common Expenses.....	32
8.2. Budgeting and Allocating Neighborhood Expenses.....	34
8.3. Budgeting for Reserves.....	35
8.4. Special Assessments.....	35
8.5. Specific Assessments.....	36
8.6. Authority to Assess Owners; Time of Payment.....	36
8.7. Obligation for Assessments.....	37
8.8. Lien for Assessments.....	38
8.9. Exempt Property.....	38
8.10. Capitalization of Association.....	39
PART FOUR: COMMUNITY DEVELOPMENT.....	39
Article IX Expansion of the Community.....	39
9.1. Expansion by Declarant.....	39
9.2. Expansion by the Association.....	40
9.3. Additional Covenants and Easements.....	40
9.4. Effect of Filing Supplemental Declaration.....	40
Article X Additional Rights Reserved to Declarant.....	40
10.1. Withdrawal of Property.....	40
10.2. Marketing and Sales Activities.....	41
10.3. Right to Develop.....	41
10.4. Rights to Stormwater Runoff and Water Reclamation; Use of Effluent.....	41
10.5. Right to Approve Additional Covenants.....	42
10.6. Right to Approve Changes in the Properties' Standards.....	42
10.7. Right to Transfer or Assign Declarant Rights.....	42
10.8. Exclusive Rights To Use Name of Development.....	42
10.9. Easement to Inspect and Right to Correct.....	42
10.10. Right to Notice of Design or Construction Claims.....	43
10.11. Termination of Rights.....	43
Article XI Easements.....	43
11.1. Easements in Common Area.....	43
11.2. Easements of Encroachment.....	44
11.3. Easements for Utilities, Etc.....	44
11.4. Easements to Serve Additional Property.....	45
11.5. Easements for Maintenance, Emergency, and Enforcement.....	45

11.6. Easements for Lake and Pond Maintenance and Flood Water.....46
 11.7. Easements for Golf Course.46
 11.8. Easement to Inspect and Right to Correct.....47
Article XII Environmental Areas and Issues.....47
 12.1. Assignment of Responsibilities.....47
 12.2. Surface Water Management System.48
 12.3. Preserves and Conservation Areas.48
 12.4. Open Space and Buffers.49
 12.5. Shorelines and Water's Edge.49
 12.6. Recycling Program.49
Article XIII Limited Common Areas.....49
 13.1. Purpose.49
 13.2. Designation.....50
 13.3. Use by Others.50
Article XIV Party Walls and Other Shared Structures.....50
 14.1. General Rules of Law to Apply.....50
 14.2. Maintenance; Damage and Destruction.50
PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY51
Article XV Dispute Resolution and Limitation on Litigation51
 15.1. Agreement to Encourage Resolution of Disputes Without Litigation.51
 15.2. Dispute Resolution Procedures.52
 15.3. Initiation of Litigation by Association.53
Article XVI Private Amenities.....54
 16.1. General.54
 16.2. Conveyance of Private Amenities.54
 16.3. View Impairment.....54
 16.4. Rights of Access and Parking.....55
 16.5. Rights and Easements Relating to Lakes and Ponds.....55
 16.6. Golf Tournaments.55
 16.7. Assessments.56
 16.8. Architectural Control.....56
 16.9. Limitations on Amendments.56
 16.10. Jurisdiction and Cooperation.....56
 16.11. Assumption of Risk and Indemnification.....57
Article XVII Mortgagee Provisions57
 17.1. Notices of Action.57
 17.2. Other Provisions for First Lien Holders.....58
 17.3. No Priority.....58
 17.4. Notice to Association.58
 17.5. Failure of Mortgagee to Respond.....58
 17.6. HUD/VA Approval.59

PART SEVEN: CHANGES IN THE COMMUNITY.....59

Article XVIII Changes in Ownership of Units.....59

Article XIX Changes in Common Area.....59

19.1. Condemnation.59

19.2. Partition.60

19.3. Transfer or Dedication of Common Area.....60

19.4. Actions Requiring Owner Approval.60

Article XX Amendment of Declaration60

20.1. By Declarant.....60

20.2. By Members.61

20.3. Validity and Effective Date.....61

20.4. Exhibits.62

- TABLE OF EXHIBITS -

<u>Exhibit</u>	<u>Subject Matter</u>	<u>Page First Mentioned</u>
"A"	Land Initially Submitted	1
"B"	Land Subject to Annexation	6
"C"	Initial Restrictions and Rules	3
"D"	By-Laws of Bay Creek at Cape Charles Community Association, Inc.	4

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made as of the date set forth on the signature page hereof by Baymark Construction Corporation, a Virginia corporation ("Declarant"). GRANTOR for indexing purposes.

PART ONE: INTRODUCTION TO THE COMMUNITY

Baymark Construction Corporation, as the developer of Bay Creek at Cape Charles, has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, expansion, administration, maintenance, and preservation of Bay Creek at Cape Charles as a master planned community.

Article I Creation of the Community

1.1. Purpose and Intent.

Declarant, as the owner of the real property described in Exhibit "A," intends by Recording this Declaration to establish a general plan of development for the planned community known as Bay Creek at Cape Charles. This Declaration provides a flexible and reasonable procedure for Bay Creek at Cape Charles' future expansion as Declarant deems appropriate and provides for its overall development, administration, maintenance, and preservation. An integral part of the development plan is the creation of Bay Creek at Cape Charles Community Association, Inc., an association comprised of all owners of real property in Bay Creek at Cape Charles, to own, operate, and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referenced in this Declaration.

This document does not and is not intended to create a condominium under Virginia law.

1.2. Binding Effect.

All property described in Exhibit "A," and any additional property which is made a part of Bay Creek at Cape Charles in the future by Recording one or more Supplemental Declarations, shall be owned, conveyed, and used subject to all of the provisions of this Declaration, which shall run with the title to such property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of Bay Creek at Cape Charles, their heirs, successors, successors-in-title, and assigns.

This Declaration, as it may be amended, shall have perpetual duration and shall be enforceable by Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns. Notwithstanding the above, this Declaration may be terminated by Recording an instrument signed by a majority of the then Owners agreeing to terminate this Declaration, in which case it shall terminate as of the date specified in such instrument. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the easement holder.

1.3. Governing Documents.

Bay Creek at Cape Charles' Governing Documents consist of:

- this Declaration and such Recorded Supplemental Declarations;
- Bay Creek at Cape Charles Community Association's Articles of Incorporation and By-Laws;
- Restrictions and Rules described in Article III;
- Architectural Guidelines described in Article IV; and
- the Association's Board of Directors' resolutions,

all as they may be amended.

Some Neighborhoods within Bay Creek at Cape Charles may be subject to additional covenants, restrictions, and easements, which a Neighborhood Association may administer. In such case, if there is a conflict between or among the Governing Documents and any such additional covenants or restrictions, or the governing documents or policies of any such Neighborhood Association, the Governing Documents shall control.

Nothing in this Section shall preclude any Supplemental Declaration or other Recorded covenants applicable to any portion of Bay Creek at Cape Charles from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration and, in such case, the more restrictive shall control. The Association may, but shall not be required to, enforce any such covenants, restrictions, or other instruments applicable to any Neighborhood.

The Governing Documents apply to all Owners and occupants of property within Bay Creek at Cape Charles, as well as to their respective tenants, guests, and invitees. Any lease on a Unit shall provide that the tenant and all occupants of the leased Unit are bound by and obligated to comply with the Governing Documents.

If any court should determine that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision.

Throughout the Governing Documents, there are diagrams to illustrate the concepts discussed and to aid in the reader's comprehension. Such diagrams are for illustrative purposes only. In the event of a conflict between any diagram and the text of the Governing Documents, the text shall control.

Diagram 1.1 identifies the various Governing Documents and their functions.

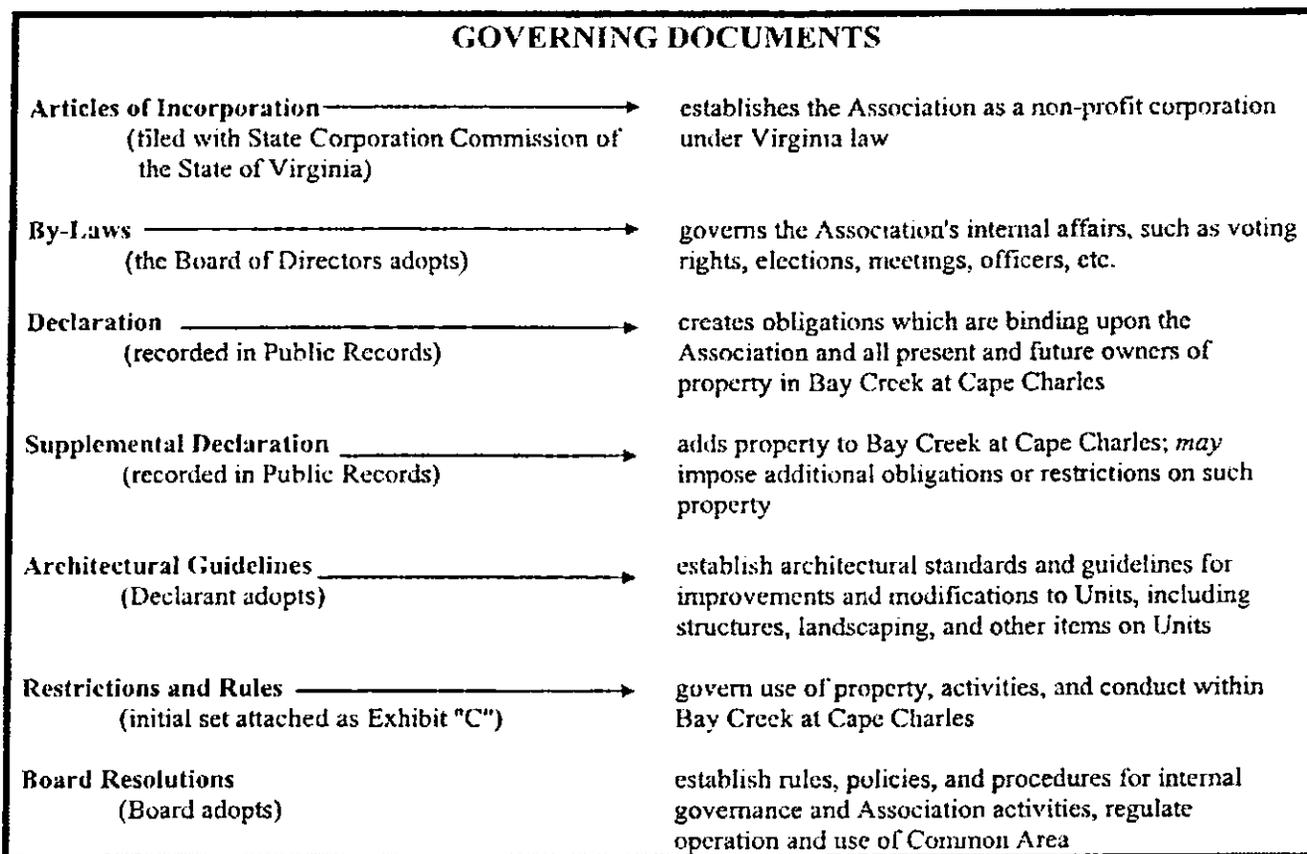


Diagram 1.1 - Governing Documents

Article II Concepts and Definitions

The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below.

"Architectural Guidelines": The architectural, design, and construction guidelines and review procedures adopted pursuant to Article IV, as they may be amended.

"Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, or other applicable covenants, contracts, or agreements.

"Articles": Bay Creek at Cape Charles Community Association's Articles of Incorporation, filed with the State Corporation Commission of the State of Virginia, as they may be amended.

"Association": Bay Creek at Cape Charles Community Association, Inc., a Virginia nonprofit corporation, its successors or assigns.

"Base Assessment": Assessments levied on all Units subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8.1.

"Bay Creek at Cape Charles" or "Properties": The real property described in Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article IX.

"Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Virginia corporate law.

"Builder": Any Person who purchases one or more Units for the purpose of constructing improvements for later sale to consumers, or who purchases one or more parcels of land within Bay Creek at Cape Charles for further subdivision, development, and/or resale in the ordinary course of its business.

"By-Laws": The By-Laws of Bay Creek at Cape Charles Community Association, Inc., as they may be amended. A copy of the initial By-Laws is attached to this Declaration as Exhibit "D."

"Class "B" Control Period": The period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board as provided in Section 3.5 of the By-Laws. The Class "B" Control Period shall terminate on the first to occur of the following:

- (a) when 75% of the total number of Units permitted by the Master Plan for the property described in Exhibits "A" and "B" have certificates of occupancy issued thereon and have been conveyed to Class "A" Members other than Builders;
- (b) December 31, 2020; or
- (c) when, in its discretion, the Class "B" Member so determines.

"Common Area": All real and personal property, including easements, which the Association owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners. The term shall include the Limited Common Area, as defined below.

"Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable

reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development or other original construction costs unless Voting Members representing a majority of the total Class "A" vote of the Association approve. Payments due under leases of capital improvements such as street lights shall not be considered an initial development or original construction cost.

"Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing at Bay Creek at Cape Charles, or the minimum standards established pursuant to the Architectural Guidelines, Restrictions and Rules, and Board resolutions, whichever is the highest standard. Declarant shall establish initially such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within Bay Creek at Cape Charles change.

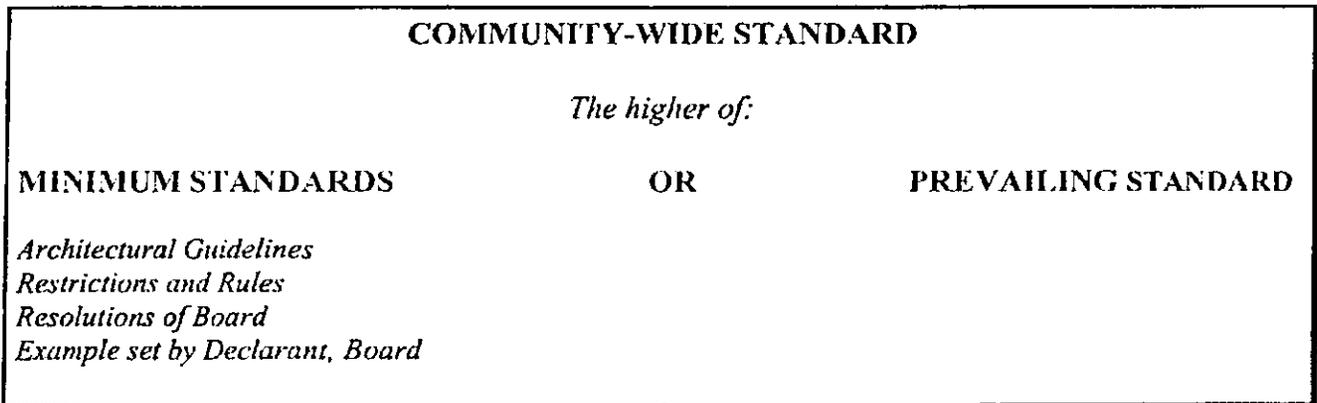


Diagram 2.1. Community-Wide Standard

"Covenant to Share Costs": A declaration of easements and covenant to share costs for Bay Creek at Cape Charles if any, which Declarant executes and Records and the Association administers, as may be amended from time to time, and which may create certain easements for the benefit of the Association and the present and future owners of other real property within Bay Creek at Cape Charles subject to such Covenant to Share Costs and may obligate the Association and such owners to share the costs of maintaining certain property described in such Covenant to Share Costs.

"Declarant": Baymark Construction Corporation, a Virginia corporation, or any successor or assign who takes title to any portion of the property described in Exhibits "A" or "B" for the purpose of development and/or sale and who is designated as Declarant in a Recorded instrument the immediately preceding Declarant executes.

"Limited Common Area": A portion of the Common Area primarily benefiting one or more, but less than all, Neighborhoods, as more particularly described in Article XIII.

"Master Plan": The land use plan for the development of the Properties prepared by The TAF Group and approved by the Town of Cape Charles, Virginia, as it may be amended, which includes all of the property described in Exhibit "A" and all or a portion of the property described

in Exhibit "B." Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the omission of property described in Exhibit "B" from the Master Plan bar its later submission to this Declaration as provided in Article IX.

"Member": A Person subject to membership in the Association pursuant to Section 6.2.

"Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit. The term **"Mortgagee"** shall refer to a beneficiary or holder of a Mortgage.

"Neighborhood": A group of Units designated as a separate Neighborhood for purposes of sharing Limited Common Areas and/or receiving other benefits or services from the Association which are not provided to all Units, and/or for the purpose of electing Voting Members. A Neighborhood may be comprised of more than one housing type and may include noncontiguous parcels of property. If the Association provides benefits or services to less than all Units within a particular Neighborhood, then the benefited Units shall constitute a sub-Neighborhood for purposes of determining and levying Neighborhood Assessments for such benefits or services.

Where the context permits or requires, the term Neighborhood shall also refer to the Neighborhood Committee (established in accordance with the By-Laws) or Neighborhood Association, if any, having concurrent jurisdiction over the property within the Neighborhood. Neighborhood boundaries may be established and modified as provided in Section 6.4.

"Neighborhood Assessments": Assessments levied against the Units in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as described in Section 8.2.

"Neighborhood Association": A condominium association or other owners association, if any, having jurisdiction over any Neighborhood concurrent with (but subject to) the jurisdiction of the Association. Nothing in this Declaration shall require the creation of any Neighborhood Associations.

"Neighborhood Expenses": The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Neighborhood(s).

"Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a Recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

"Person": A natural person, a corporation, a partnership, a trustee, or any other legal entity.

"Private Amenities": Certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within the Properties, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis or otherwise, and shall include, without limitation, the marina and golf course(s), if any, which are so located and all related and supporting facilities and improvements.

"Record," "Recording," or "Recorded": The filing of a legal instrument in the Clerk's Office of the Circuit Court of Northampton County, Virginia, or such other place as may be designated as the official location for recording deeds, plats, and similar documents affecting title to real estate.

"Restrictions and Rules": The initial restrictions and rules set forth in Exhibit "C," as they may be supplemented, modified, and repealed pursuant to Article III.

"Special Assessment": Assessments levied in accordance with Section 8.4.

"Specific Assessment": Assessments levied in accordance with Section 8.5.

"Supplemental Declaration": An instrument Recorded pursuant to Article IX which subjects additional property to this Declaration, designates Neighborhoods, and/or imposes additional restrictions and obligations on the land described in such instrument. The term shall also refer to an instrument which Declarant Records pursuant to Section 6.4(c) designating Voting Groups.

"Unit": A portion of the Properties, whether improved or unimproved, which may be independently owned and is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. In the case of a structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to contain the number of Units designated for residential use for such parcel on the Master Plan or Declarant's site plan, whichever is more recent. Thereafter, the portion encompassed on such plat shall contain the number of Units determined as set forth in the preceding paragraph. Any portion not encompassed on such plat shall continue to be treated in accordance with this paragraph.

"Voting Group": One or more Voting Members who vote on a common slate for election of directors, as more particularly described in Section 6.4(c) or, if the context so indicates, the group of Members whose Units are represented thereby.

"Voting Member": The representative selected by the Class "A" Members within each Neighborhood pursuant to Section 6.4(b) to cast the Class "A" votes attributable to their Units on all matters requiring a vote of the membership (except as otherwise specifically provided in this Declaration and in the By-Laws). The term "Voting Member" shall also refer to alternate Voting

Members acting in the absence of the Voting Member and any Owners authorized personally to cast the votes for their respective Units pursuant to Section 6.4(b).

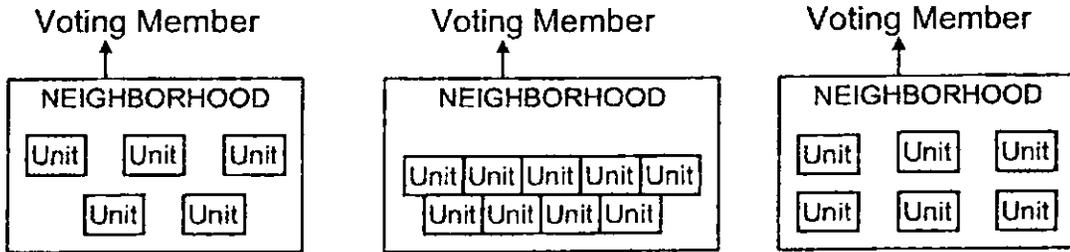


Diagram 2.2 - Voting Members

[Note: Number of Units shown in each Neighborhood is for demonstrative purposes only. Actual numbers may vary from one Neighborhood to another and could be substantially more or less than number of Units shown. Refer to Section 6.4(b) and (c) for a more detailed explanation of representative voting.]

PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

The standards for use and conduct, maintenance, and architecture at Bay Creek at Cape Charles are what give the community its identity and make it a place that people want to call "home." Each Owner and resident in upholding such standards can take pride in the results of that common effort. This Declaration establishes procedures for adopting, modifying, applying, and enforcing such standards while providing the flexibility for the community standards to evolve as Bay Creek at Cape Charles changes and grows over time.

Article III Use and Conduct

3.1. Framework for Regulation.

The Governing Documents establish, as part of the general plan of development for the Properties, a framework of affirmative and negative covenants, easements, and restrictions which govern the Properties. Within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends, and technology. Therefore, this Article establishes procedures for modifying and expanding the initial Restrictions and Rules set forth in Exhibit "C." This Article is not intended to apply to rules and regulations relating to use and operation of the Common Area which the Board may adopt by resolution pursuant to Section 7.1(c).

3.2. Rule Making Authority.

(a) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules. The Board shall send notice to all Owners concerning any proposed action at least five business days prior

to the Board meeting at which such action is to be considered. Voting Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective, after compliance with subsection (c) below, unless Voting Members representing more than 50% of the total Class "A" votes in the Association and the Class "B" Member, if any, disapprove. The Board shall have no obligation to call a meeting of the Voting Members to consider disapproval except upon receipt of a petition of the Voting Members as required for special meetings in the By-Laws. Upon such petition of the Voting Members prior to the effective date of any Board action under this Section 3.2(a), the proposed action shall not become effective until after such meeting is held, and then subject to the outcome of such meeting.

(b) Alternatively, Voting Members, representing more than 50% of the total Class "A" votes in the Association at an Association meeting duly called for such purpose, may vote to adopt rules which modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules then in effect. Such action shall require approval of the Class "B" Member, if any.

(c) Prior to any action taken under this Section becoming effective, the Board shall send a copy of the new rule or explanation of any changes to the Restrictions and Rules to each Owner. The effective date shall be not less than 30 days following distribution to Owners. The Association shall provide, without cost, a copy of the Restrictions and Rules then in effect to any requesting Member or Mortgagee.

(d) No action taken under this Article shall have the effect of modifying, repealing, or expanding the Architectural Guidelines or any provision of this Declaration other than the initial Restrictions and Rules set forth in Exhibit "C." In the event of a conflict between the Architectural Guidelines and the Restrictions and Rules, the Architectural Guidelines shall control.

(e) The procedures required under this Section 3.2 shall not apply to the enactment and enforcement of administrative rules and regulations governing use of the Common Area unless the Board chooses in its discretion to submit to such procedures. Examples of such administrative rules and regulations shall include, but not be limited to, hours of operation of a recreational facility, speed limits on private roads, and the method of allocating or reserving use of a facility (if permitted) by particular individuals at particular times.

3.3. Owners' Acknowledgment and Notice to Purchasers.

All Owners are given notice that use of their Units and the Common Area is limited by the Restrictions and Rules as amended, expanded, and otherwise modified from time to time. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this provision and that the Restrictions and Rules may change from time to time. All purchasers of Units are on notice that the Association may have adopted changes. Copies of the current Restrictions and Rules may be obtained from the Association.

3.4. Protection of Owners and Others.

Except as may be set forth in this Declaration (either initially or by amendment) or in the initial Restrictions and Rules set forth in Exhibit "C," all Restrictions and Rules shall comply with the following provisions:

(a) Similar Treatment. Similarly situated Owners shall be treated similarly; however, the Restrictions and Rules may vary by Neighborhood.

(b) Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations inside structures on their Units of the kinds normally displayed in dwellings located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling.

No rules shall regulate the content of political signs; however, rules may regulate the time, place, and manner of posting such signs (including design criteria).

(c) Household Composition. No rule shall interfere with the freedom of Owners to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit and its fair use of the Common Area.

(d) Activities Within Dwellings. No rule shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance.

(e) Allocation of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for use of the Common Area, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in Article VIII.

(f) Alienation. No rule shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit; provided, the Association or the Board may require a minimum lease term of up to 12 months or require the use of a qualified leasing company. The Association may require that Owners use lease forms approved by the Association, but shall not impose any fee on the lease or transfer of any Unit greater than an amount reasonably based on the costs to the Association of administering that lease or transfer.

(g) Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in or on a Unit prior to the adoption of such rule if such personal property was in compliance with all rules previously in force. This exemption shall apply only during the period of such Owner's ownership of the Unit, and shall not apply to subsequent Owners who take title to the Unit after adoption of the rule.

(h) Reasonable Rights to Develop. No rule or action by the Association or Board shall unreasonably impede Declarant's right to develop the Properties.

(i) Interference with Private Amenities. No rule or action by the Association shall interfere with the ownership, transfer, use, or operation of any Private Amenity.

The limitations in subsections (a) through (g) of this Section 3.4 shall only limit rulemaking authority exercised under Section 3.2; they shall not apply to amendments to this Declaration adopted in accordance with Article XX.

Article IV Architecture and Landscaping

4.1. General.

No structure or thing shall be placed, erected, or installed upon any Unit and no improvements or other work (including staking, clearing, excavation, grading and other site work, exterior alterations of existing improvements, erecting or modifying fences, or planting or removal of landscaping) shall take place within the Properties, except in compliance with this Article and the Architectural Guidelines.

No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint, or redecorate the interior of his or her Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structure shall be subject to approval.

All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect unless Declarant or its designee otherwise approves in its sole discretion.

This Article shall not apply to Declarant's activities, nor to activities of the Association during the Class "B" Control Period.

4.2. Architectural Review.

(a) By Declarant. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Properties, acknowledges that, as the developer of the Properties and as an owner of portions of the Properties as well as other real estate within the vicinity of the Properties, Declarant has a substantial interest in ensuring that the improvements within the

Properties enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article shall be commenced on such Owner's Unit unless and until Declarant or its designee has given its prior written approval for such activity, which approval may be granted or withheld in the Declarant's or its designee's sole discretion.

In reviewing and acting upon any request for approval, Declarant or its designee shall be acting solely in Declarant's interest and shall owe no duty to any other Person. Declarant's rights reserved under this Article shall continue so long as Declarant owns any portion of the Properties or any real property adjacent to the Properties, unless earlier terminated in a written instrument executed and Recorded by Declarant.

Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to (i) an architectural review committee appointed by the Board of Directors (the "ARC"), or (ii) a committee comprised of architects, engineers, or other persons who may or may not be Members of the Association. Any such delegation shall be in writing specifying the scope of responsibilities delegated. It shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of the foregoing entities shall be limited to such matters as Declarant specifically delegates to it.

(b) Architectural Review Committee. Upon delegation by Declarant or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the ARC, shall assume jurisdiction over architectural matters. The ARC, when appointed, shall consist of at least three, but not more than seven, persons who shall serve and may be removed and replaced in the Board's discretion. The members of the ARC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers, or similar professionals, who may be compensated in such manner and amount, if any, as the Board may establish.

Unless and until such time as Declarant delegates all or a portion of its reserved rights to the ARC or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

(c) Fees; Assistance. For purposes of this Article, the entity having jurisdiction in a particular case shall be referred to as the "Reviewer." The Reviewer may establish and charge reasonable fees for review of applications and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform

the review. The Board may include the compensation of such persons in the Association's annual operating budget.

4.3. Guidelines and Procedures.

(a) Architectural Guidelines. Declarant may prepare the initial Architectural Guidelines, which may contain general provisions applicable to all of the Properties as well as specific provisions which vary from Neighborhood to Neighborhood. The Architectural Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Reviewer in considering applications. The Architectural Guidelines are not the exclusive basis for decisions of the Reviewer and compliance with the Architectural Guidelines does not guarantee approval of any application.

Declarant shall have sole and full authority to amend the Architectural Guidelines as long as it owns any portion of or has a right to expand the Properties pursuant to Section 9.1, notwithstanding a delegation of reviewing authority to the ARC, unless Declarant also delegates the power to amend to the ARC. Upon termination or delegation of Declarant's right to amend, the ARC shall have the authority to amend the Architectural Guidelines with the consent of the Board.

Any amendments to the Architectural Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Architectural Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Architectural Guidelines less restrictive.

The Reviewer shall make the Architectural Guidelines available to Owners and Builders who seek to engage in development or construction within the Properties. In Declarant's discretion, such Architectural Guidelines may be Recorded, in which event the Recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Architectural Guidelines was in effect at any particular time.

(b) Procedures. Except as otherwise specifically provided in the Architectural Guidelines, no activities shall commence on any portion of the Properties until an application for approval has been submitted to and approved by the Reviewer. Such application shall include plans and specifications showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable. The Architectural Guidelines and the Reviewer may require the submission of such additional information as may be reasonably necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have

the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations shall not be subject to review so long as made in good faith and in accordance with the procedures set forth herein.

The Reviewer shall make a determination on each application within 30 days after receipt of a completed application and all required information. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

Until expiration of Declarant's rights under this Article, the ARC shall notify Declarant in writing within three business days after the ARC has approved any application within the scope of matters delegated to the ARC by Declarant. The notice shall be accompanied by a copy of the application and any additional information which Declarant may require. Declarant shall have 30 days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the ARC.

The Reviewer shall notify the applicant in writing of the final determination on any application within five days thereafter or, with respect to any determination by the ARC subject to Declarant's veto right, within five days after the earlier of: (i) receipt of notice of Declarant's veto or waiver thereof; or (ii) expiration of the 30-day period for exercise of Declarant's veto. In the case of disapproval, the Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

In the event that the Reviewer fails to respond in a timely manner, approval shall be deemed to have been given, subject to Declarant's right to veto pursuant to this Section. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Architectural Guidelines unless a written variance has been granted pursuant to Section 4.5. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U. S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

If construction does not commence on a project for which Plans have been approved within one year after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant, or any aggrieved Owner.

The Reviewer may, by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

4.4. No Waiver of Future Approvals.

Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the reviewer may refuse to approve similar proposals in the future. Approval of applications or plans, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

4.5. Variances.

The Reviewer may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

4.6. Limitation of Liability.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Properties; they do not create any duty to any Person. Review and approval of any application pursuant to this Article may be made on the basis of aesthetic considerations only, and the Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value, or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners.

Declarant, the Association, the Board, any committee, or member of any of the foregoing shall not be held liable for soil conditions, drainage, or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not Declarant has approved or featured such contractor as a builder in Virginia; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Unit. In all matters, the Board, the ARC, and the members of each shall be defended and indemnified by the Association as provided in Section 7.6.

4.7. Certificate of Compliance.

Any Owner may request that the Reviewer issue a certificate of architectural compliance certifying that there are no known violations of this Article or the Architectural Guidelines. The Association shall either grant or deny such request within 30 days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall estop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

Article V Maintenance and Repair

5.1. Maintenance of Units and Private Amenities.

(a) General. Each Owner shall maintain his or her Unit or Private Amenity, respectively, and all landscaping and improvements comprising the Unit or Private Amenity in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants, unless, in the case of a Unit, such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit.

Each Owner shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the Unit boundary and any wall, fence, or curb located on the Common Area or public right-of-way within 10 feet of the Unit boundary; provided, there shall be no right to remove trees, shrubs, or similar vegetation from this area without prior approval pursuant to Article IV.

(b) Lake-Fronting or Pond-Fronting Units. Each Owner of a lake-fronting or pond-fronting Unit, whether or not such Unit is adjacent to the golf course, shall maintain such Owner's Unit to the water's edge of the lake or pond, as it may vary from time to time. Declarant or the Association, acting in its sole discretion, shall resolve any disputes regarding the location of the water's edge of the lake or pond, and such determination shall be final and binding.

(c) Enforcement. In the event that any Owner fails to maintain his or her Unit in accordance with the Community-Wide Standard, the Association or any applicable Neighborhood Association may perform such maintenance on behalf of the Owner. Such maintenance costs shall be assessed against the benefited Unit Owner as a Specific Assessment.

5.2. Maintenance of Neighborhood Property.

Any Neighborhood Association shall maintain its common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants.

Any Neighborhood Association shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the boundary of its common property and any wall, fence, or curb located on the Common Area or public right-of-way within 10 feet of its boundary; provided, there shall be no right to remove trees, shrubs, or similar vegetation from this area without prior approval pursuant to Article IV.

Upon resolution of the Board, Owners within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining, and insuring certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way, and greenspace between the Neighborhood and adjacent public roads, private streets within the Neighborhood, and lakes or ponds within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Neighborhoods which are similarly situated shall be treated the same.

The Association may assume maintenance responsibility for property within any Neighborhood, in addition to that designated by any Supplemental Declaration, either by agreement with the Neighborhood or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of maintenance pursuant to this paragraph shall be assessed as a Neighborhood Assessment only against the Units within the Neighborhood to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

5.3. Marina Maintenance.

Declarant owns the marina located within or adjacent to the Properties. The marina is a Private Amenity, to which all of the provisions of Article XVI apply. So long as Declarant owns the marina, Declarant shall be responsible for maintaining the water surface and the lands beneath the water surface of the marina and its channels in accordance with the Community-Wide Standard. Such responsibility shall include the maintenance, repair, replacement, dredging, and insurance of all improvements, if any, located within the marina. Upon transfer of title to the marina, the purchaser shall be responsible for maintaining the marina. Nothing herein shall interfere with Declarant's or its successor's or assignee's rights to transfer, market, improve, use, operate, or establish the eligibility, duration, fees, terms, and conditions for use of the marina.

5.4. Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary to maintain the property to a level consistent with the Community-Wide Standard.

By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either the Neighborhood Association (if any) for the Neighborhood in which the Unit is located or the Association carries such insurance (which they may, but are not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his or her Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IV. Alternatively, the Owner shall clear the Unit and maintain it in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs not covered by insurance proceeds.

This Section shall apply to any Neighborhood Association responsible for common property within the Neighborhood in the same manner as if the Neighborhood Association were an Owner and the common property were a Unit. Additional Recorded covenants applicable to any Neighborhood may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Units within such Neighborhood and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

This Declaration establishes the Association as a mechanism by which each Owner is able to participate in the governance and administration of the Properties. While many powers and responsibilities are vested in the Association's board of directors in order to facilitate day-to-day management and operation, some decisions are considered of such importance that they are reserved for the Association's membership -- the owners of property in Bay Creek at Cape Charles.

Article VI The Association and its Members

6.1. Function of Association.

The Association is the entity responsible for management, maintenance, operation, and control of the Area of Common Responsibility. The Association also is the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and Virginia law.

6.2. Membership.

Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3(c) and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

6.3. Voting.

The Association shall have two classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 6.2, except that there shall be only one vote per Unit. No vote shall be exercised for any property which is exempt from assessment under Section 8.9. All Class "A" votes shall be cast as provided in Section 6.3(c) below.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The Class "B" Member may appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in the By-Laws. Additional rights of the Class "B" Member are specified in the relevant sections of the Governing Documents. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the By-Laws.

The Class "B" membership shall terminate upon the earlier of:

- (i) two years after expiration of the Class "B" Control Period pursuant to Article III of the By-Laws; or
- (ii) when, in its discretion, Declarant so determines and declares in a Recorded instrument.

Upon termination of the Class "B" membership, Declarant shall be a Class "A" Member entitled to Class "A" votes for each Unit which it owns.

In recognition of the different character and intended use of the property subject to such Supplemental Declaration, Declarant may, by Supplemental Declaration, create additional classes of membership for the owners of Units within any property made subject to this Declaration pursuant to Article IX. These classes shall have such rights, privileges, and obligations as specified in such Supplemental Declaration.

(c) Exercise of Voting Rights. Except as otherwise specified in this Declaration or the By-Laws, the vote for each Unit owned by a Class "A" Member shall be exercised by the Voting Member representing the Neighborhood, as provided in Section 6.4(b). The Voting Member may cast all such votes as it, in its discretion, deems appropriate.

In any situation where a Member is entitled personally to exercise the vote for his or her Unit, and there is more than one Owner of such Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

6.4. Neighborhoods, Voting Members, and Voting Groups.

(a) Neighborhoods. Any Neighborhood, acting either through a Neighborhood Committee elected as provided in Section 5.3 of the By-Laws or through a Neighborhood Association, if any, may request that the Association provide a higher level of service than that which the Association generally provides to all Neighborhoods or may request that the Association provide special services for the benefit of Units in such Neighborhood. Upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Units within the Neighborhood, the Association shall provide the requested services.

The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Unit to all Neighborhoods receiving the same service), shall be assessed against the Units within such Neighborhood as a Neighborhood Assessment.

Exhibit "A" to this Declaration, and each Supplemental Declaration submitting additional property to this Declaration shall initially assign the submitted property to a specific Neighborhood (by name or other identifying designation), which Neighborhood may be then existing or newly created. So long as it has the right to subject additional property to this Declaration pursuant to Section 9.1, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to redesignate Neighborhood boundaries. However, two or more existing Neighborhoods shall not be combined without the consent of Owners of a majority of the Units in the affected Neighborhoods.

(b) Voting Members. Each Neighborhood shall elect a Voting Member who shall be responsible for casting all votes attributable to Units owned by Class "A" Members in the Neighborhood on all Association matters requiring a membership vote, except as otherwise specified in this Declaration or the By-Laws. In addition, each Neighborhood shall elect an alternate Voting Member who shall be responsible for casting such votes in the absence of the Voting Member.

The first election of a Voting Member and alternate Voting Member from each Neighborhood shall occur within one year after the sale of the first Unit in the Neighborhood to a Person other than a Builder. Thereafter, the Board shall call for an election of Voting Members and alternates on an annual basis, either by written ballots cast by mail, computer, or at a meeting

of the Class "A" Members within such Neighborhood, as the Board determines. Upon written petition signed by Class "A" Members holding at least 10% of the votes attributable to Units within any Neighborhood, the election for such Neighborhood shall be held at a meeting. Candidates for election as Voting Members may be nominated by the Board, a nominating committee which the Board may appoint, or from the floor at any meeting at which such election is to be held.

The presence, in person or by proxy, or the filing of ballots by Class "A" Members representing at least 25% of the total Class "A" votes attributable to Units in the Neighborhood shall constitute a quorum at any Neighborhood meeting or election. In the event of a failure to obtain a quorum or vacancy in such positions for any Neighborhood, the Board may appoint a Voting Member or alternate Voting Member to represent such Neighborhood until a successor is elected.

For any Neighborhood election, each Class "A" Member shall be entitled to one equal vote for each Unit which such Owner owns in the Neighborhood. The candidate who receives the greatest number of votes shall be elected as Voting Member and the candidate receiving the next greatest number of votes shall be elected as the alternate Voting Member. The Voting Member and the alternate Voting Member shall serve a term of one year and until their successors are elected.

Any Voting Member may be removed, with or without cause, upon the vote or written petition of Owners of a majority of the total number of Units owned by Class "A" Members in the Neighborhood which the Voting Member represents.

Until such time as the Board first calls for election of a Voting Member for any Neighborhood, the Owners within such Neighborhood shall be entitled personally to cast the votes attributable to their respective Units on any issue requiring a membership vote under the Governing Documents.

(c) Voting Groups. Declarant may designate Voting Groups consisting of one or more Neighborhoods for the purpose of electing directors to the Board. Voting Groups may be designated to ensure groups with dissimilar interests are represented on the Board and to avoid some Voting Members being able to elect the entire Board due to the number of Units in such Neighborhoods. Following termination of the Class "B" Control Period, the number of Voting Groups within the Properties shall not exceed the total number of directors to be elected by the Class "A" Members pursuant to the By-Laws.

The Voting Members representing the Neighborhoods within each Voting Group shall vote on a separate slate of candidates for election to the Board. Each Voting Group is entitled to elect the number of directors specified in Section 3.2 of the By-Laws.

Diagram 6.1 illustrates the organizational structure of the Association and the manner in which Voting Members and Voting Groups will elect the Board of Directors after the Class "B" Control Period. The number of directors (five), Neighborhoods (five), and Voting

Groups (three) shown in the illustration are for demonstrative purposes only; the actual number may be different.

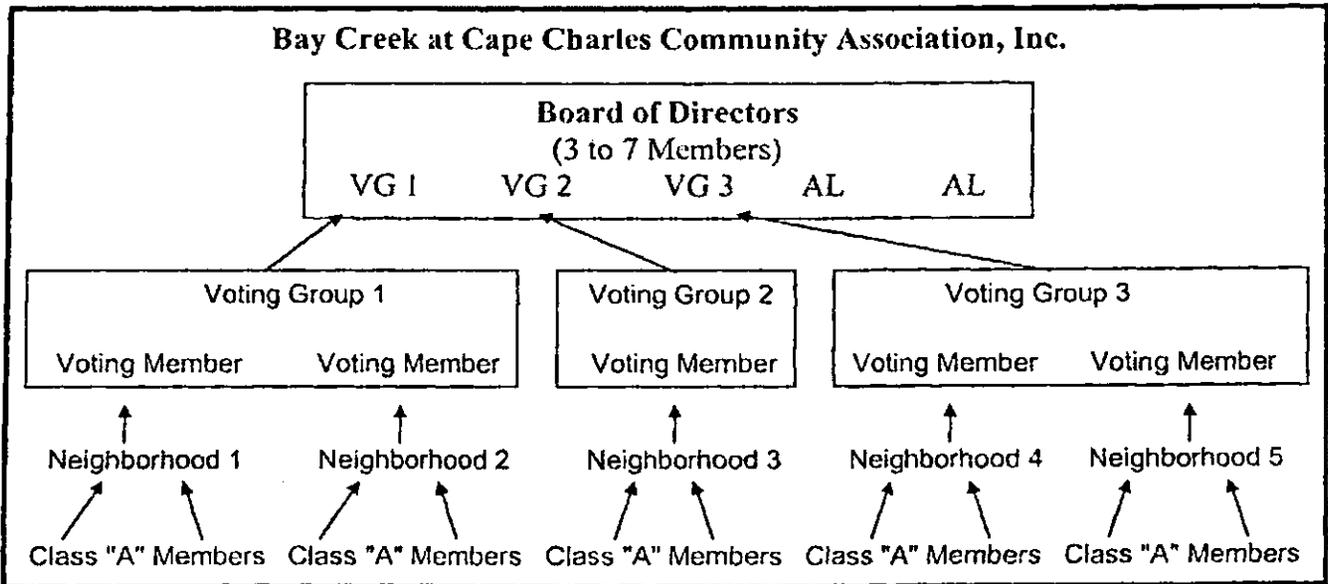


Diagram 6.1 - Association Organizational Structure

Declarant shall establish Voting Groups, if at all, not later than the date of expiration of the Class "B" Control Period by filing with the Association and Recording a Supplemental Declaration identifying each Voting Group by legal description or other means such that the Units within each Voting Group can easily be determined. Such designation may be amended from time to time by Declarant, acting alone, at any time prior to the expiration of the Class "B" Control Period.

After expiration of Declarant's right to expand the Properties pursuant to Article IX, the Board shall have the right to Record or amend such Supplemental Declaration upon the vote of a majority of the total number of directors and approval of Voting Members representing a majority of the total number of Neighborhoods and a majority of the total Class "A" votes in the Association. Neither Recordation nor amendment of such Supplemental Declaration by Declarant shall constitute an amendment to this Declaration, and no consent or approval of any Person shall be required except as stated in this paragraph. Until such time as Voting Groups are established, all of the Properties shall constitute a single Voting Group. After a Supplemental Declaration establishing Voting Groups has been Recorded, any and all portions of the Properties which are not assigned to a specific Voting Group shall constitute a single Voting Group.

Article VII Association Powers and Responsibilities**7.1. Acceptance and Control of Association Property.**

(a) The Association, through action of its Board, may acquire, hold, lease (as lessor or lessee), operate, and dispose of tangible and intangible personal property and real property, subject to the provisions of Sections 17.6 and 19.4. The Association may enter into leases, licenses, or operating agreements for portions of the Common Area, for such consideration or no consideration as the Board deems appropriate, to permit use of such portions of the Common Area by community organizations and by others, whether nonprofit or for profit, for the provision of goods or services for the general benefit or convenience of owners, occupants, and residents of the Properties.

(b) Declarant and its designees may convey to the Association, and the Association shall accept "as is," personal property and fee title, leasehold or other property interests in any real property, improved or unimproved, described in Exhibits "A" or "B." Declarant shall convey the initial Common Area to the Association prior to the conveyance of a Unit to any Person other than a Builder. Upon Declarant's written request, the Association shall reconvey to Declarant any unimproved portions of the Common Area Declarant originally conveyed to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

(c) The Association shall be responsible for management, operation, and control of the Common Area, subject to any covenants and restrictions set forth in the deed or other instrument transferring such property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area as it deems appropriate.

7.2. Maintenance of Area of Common Responsibility.

The Association shall maintain, in accordance with the Community-Wide Standard, the Area of Common Responsibility, which shall include, but need not be limited to:

(a) all portions of and structures situated on the Common Area, including, but not limited to, gatehouses, private roads, trails, community open space, buffers, and natural preserve areas;

(b) landscaping within public rights-of-way within or abutting the Properties;

(c) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration or any Supplemental Declaration, Covenant to Share Costs, or contract or agreement for maintenance thereof entered into by the Association;

(d) the community beach and all shorelines within the Properties;

(c) all lakes, ponds, streams, and/or wetlands located within the Properties which serve as part of the stormwater drainage system for the Properties, including improvements and equipment installed therein or used in connection therewith; and

(f) any property and facilities which Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. Such property and facilities shall be identified by written notice from Declarant to the Association and will remain part of the Area of Common Responsibility maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the Board's sole discretion, to perform required maintenance or repairs, unless Voting Members representing 75% of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced except with Declarant's prior written approval as long as Declarant owns any property described in Exhibits "A" or "B" of this Declaration.

The costs associated with maintenance, repair, and replacement of the Area of Common Responsibility shall be a Common Expense; provided, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, any Covenant to Share Costs, other Recorded covenants, or agreements with the owner(s) thereof. Maintenance, repair, and replacement of Limited Common Areas shall be a Neighborhood Expense assessed to the Neighborhood(s) to which the Limited Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

7.3. Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and within the Area of Common Responsibility to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-quarter of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in the exercise of its business judgment, determines advisable.

In addition, the Association shall, if so specified in a Supplemental Declaration applicable to any Neighborhood, obtain and maintain property insurance on the insurable improvements within such Neighborhood which insurance shall comply with the requirements of Section 7.3(a)(i). Any such policies shall provide for a certificate of insurance to be furnished upon request to the Owner of each Unit insured.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses, except that (i) premiums for property insurance on Units within a Neighborhood shall be a Neighborhood Expense; and (ii) premiums for insurance on Limited Common Areas may be included in the Neighborhood Expenses of the Neighborhood(s) to which such Limited Common Areas are assigned unless the Board reasonably determines that other treatment of the premiums is more appropriate.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in Northampton County, Virginia. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

- (i) be written with a company authorized to do business in Virginia which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;
- (ii) be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a Neighborhood shall be for the benefit of the Owners within the Neighborhood and their Mortgagees, as their interests may appear;
- (iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;
- (iv) contain an inflation guard endorsement;
- (v) include an agreed amount endorsement, if the policy contains a co-insurance clause;
- (vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);
- (vii) provide a waiver of subrogation under the policy against any Owner or household member of an Owner;
- (viii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of

any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(iv) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) a cross liability provision; and

(vi) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed unless the Voting Members representing at least 75% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 days after the loss not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and

thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Owners of Units within the insured Neighborhood, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Voting Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 7.3(a).

7.4. Compliance and Enforcement.

(a) Every Owner and occupant of a Unit shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in Section 3.24 of the By-Laws. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit. (In the event that any occupant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);

(ii) suspending an Owner's right to vote;

(iii) suspending any Person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(iv) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;

(v) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(vi) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of the Governing Documents and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(vii) without liability to any Person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and the Architectural Guidelines from continuing or performing any further activities in the Properties; and

(vii) levying Specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents.

In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in Section 3.24 of the By-Laws:

(i) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); or

(ii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may Record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner as a Specific Assessment. If a Neighborhood Association fails to perform its maintenance responsibilities, the Association may perform such maintenance and assess the costs as a Specific Assessment against all Units within such Neighborhood. Except in an emergency situation, the Association shall provide the Owner or Neighborhood Association with reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

(b) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action; or

(ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction, or rule.

The Association, by contract or other agreement, may enforce applicable town and county ordinances and permit Northampton County or the Town of Cape Charles to enforce ordinances within the Properties for the benefit of the Association and its Members.

7.5. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. All rights and powers of the Association may be exercised by the Board without a vote of the membership except where applicable law or the Governing Documents specifically require a vote of the membership.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Association or its Members.

In exercising the rights and powers of the Association, making decisions on behalf of the Association, and conducting the Association's affairs, Board members shall be subject to, and their actions shall be judged in accordance with, the standards set forth in Section 3.25 of the By-Laws.

7.6. Indemnification of Officers, Directors, and Others.

Subject to Virginia law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Virginia law.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association).

The Association shall indemnify and forever hold each such officer, director, and committee member harmless from any and all liability to others on account of any such contract, commitment, or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

7.7. Safety and Security.

Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Properties. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to enhance the level of safety or security which each person provides for himself or herself and his or her property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of safety or security within the Properties, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Properties, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Unit that the Association, its Board and committees, and Declarant are not insurers or guarantors of security or safety and that each Person within the Properties assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

7.8. Powers of the Association Relating to Neighborhood Associations.

The Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefor.

A Neighborhood Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Neighborhood Association fails to comply, the Association shall have the right to effect such action on behalf of the Neighborhood Association and levy Specific Assessments to cover the costs, as well as an administrative charge and sanctions.

7.9. Provision of Services.

The Association may provide, or provide for, services and facilities for the Members and their Units, and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use or service fees for any such services and facilities provided at the option of an Owner, or may include the costs thereof in the Association's budget as a Common Expense and assess it as part of the Base Assessment if provided to all Units. By way of example, such services and facilities might include landscape maintenance, pest control service, cable television service, security, caretaker, transportation, fire protection, utilities, and similar services and facilities.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board shall be permitted to modify or cancel existing contracts for services in its discretion, unless the provision of such services is otherwise required by the Governing Documents. Non-use of services provided to all Owners or Units as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

7.10. Relationships with Other Properties.

The Association may enter into contractual agreements or covenants to share costs with any neighboring property or Private Amenity to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Area maintenance.

7.11. Facilities and Services Open to the Public.

Certain facilities and areas within the Properties may be open for use and enjoyment of the public. Such facilities and areas may include, by way of example: greenbelts, trails and paths, parks, and other neighborhood spots conducive to gathering and interaction, roads, sidewalks, and medians. Declarant may designate such facilities and areas as open to the public at the time Declarant makes such facilities and areas a part of the Area of Common Responsibility or the Board may so designate at any time thereafter.

Article VIII Association Finances

8.1. Budgeting and Allocating Common Expenses.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.3. The budget shall also reflect the sources and estimated

amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Units, as authorized in Section 8.6.

Diagram 8.1 illustrates the various funding sources available to the Association:

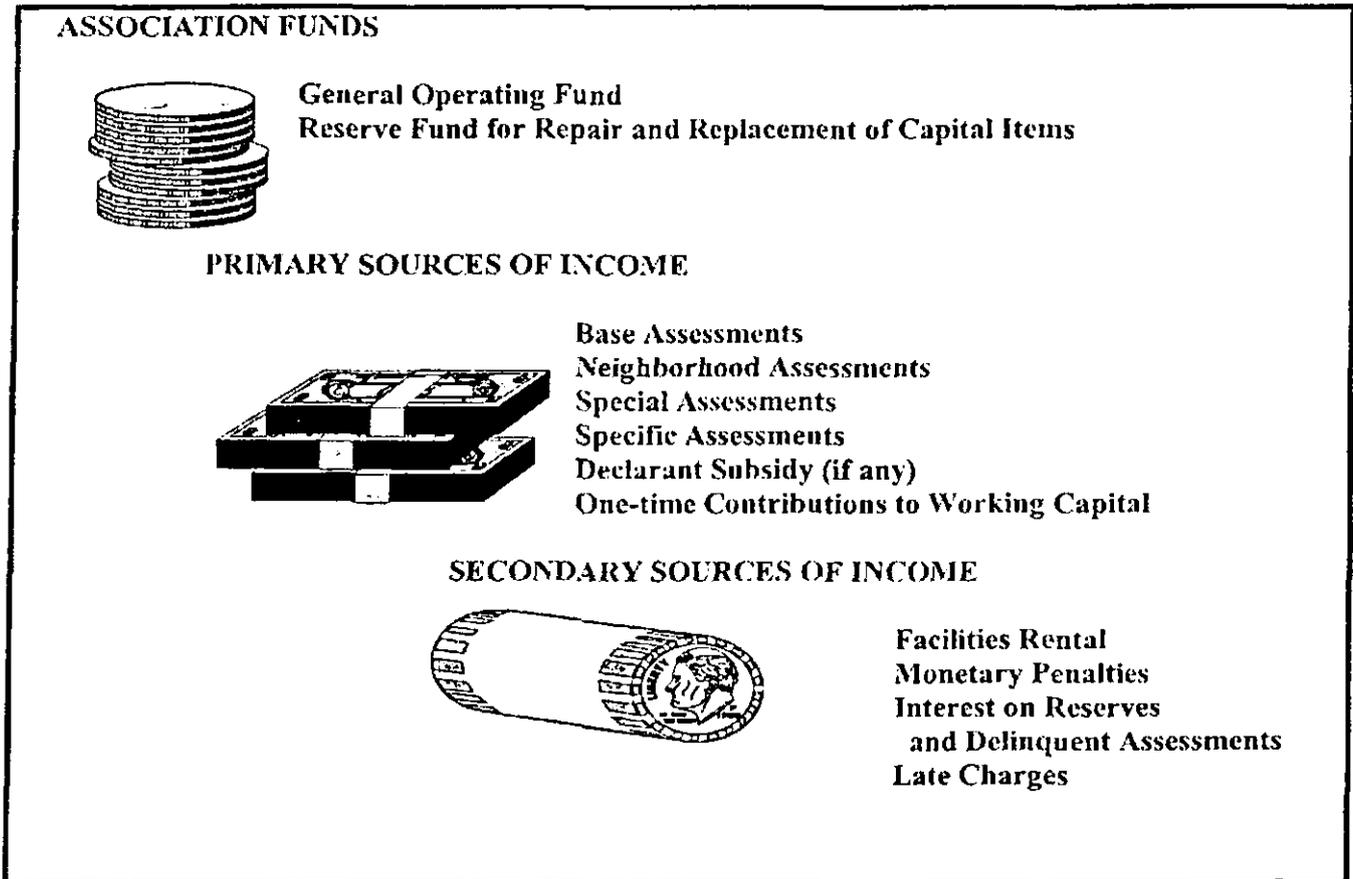


Diagram 8.1 - Funding Sources

The Association is authorized to levy Base Assessments equally against all Units subject to assessment under Section 8.6 to fund the Common Expenses. In determining the Base Assessment rate per Unit, the Board may consider any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.7(b)), which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate

Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner at least 30 days prior to the effective date of such budget. The budget shall automatically become effective unless disapproved at a meeting by Members representing at least 75% of the total Class "A" votes in the Association and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in Section 2.4 of the By-Laws. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

8.2. Budgeting and Allocating Neighborhood Expenses.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Neighborhood Expenses for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. Each such budget shall include any costs for additional services or a higher level of services which the Owners in such Neighborhood have approved pursuant to Section 6.4(a) and any contribution to be made to a reserve fund pursuant to Section 8.3. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount required to be generated through the levy of Neighborhood and Special Assessments against the Units in such Neighborhood.

The Association is hereby authorized to levy Neighborhood Assessments equally against all Units in the Neighborhood which are subject to assessment under Section 8.6 to fund Neighborhood Expenses; provided, if so specified in the applicable Supplemental Declaration or if so directed by petition signed by a majority of the Owners within the Neighborhood, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefited Units in proportion to the benefit received.

The Board shall cause a copy of the Neighborhood budget and notice of the amount of the Neighborhood Assessment for the coming year to be delivered to each Owner in the Neighborhood at least 30 days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Neighborhood by Owners of a majority of the Units in the Neighborhood to which the Neighborhood Assessment

applies. However, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least 10% of the Units in such Neighborhood. This right to disapprove shall only apply to those line items in the Neighborhood budget which are attributable to services requested by the Neighborhood and shall not apply to any item which the Governing Documents require to be assessed as a Neighborhood Assessment.

If the proposed budget for any Neighborhood is disapproved or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

The Board may revise the budget for any Neighborhood and the amount of any Neighborhood Assessment from time to time during the year, subject to the notice requirements and the right of the Owners of Units in the affected Neighborhood to disapprove the revised budget as set forth above.

All amounts collected by the Association as Neighborhood Assessments shall be held in trust for and expended solely for the benefit of the Neighborhood for which they were collected and shall be accounted for separately from the Association's general funds.

8.3. Budgeting for Reserves.

The Board shall prepare and review at least annually a reserve budget for the Area of Common Responsibility and for each Neighborhood for which the Association maintains capital items as a Neighborhood Expense. The budgets shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to Section 8.1 or the Neighborhood Expense budgets adopted pursuant to Section 8.2, as appropriate, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect to both amount and timing by annual contributions over the budget period.

8.4. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any Neighborhood if such Special Assessment is for Neighborhood Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Voting Members (if a Common Expense) or Owners (if a Neighborhood Expense) representing more than 50% of the total votes allocated to Units which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

No director, officer, or committee member shall be liable for failure to perform his or her fiduciary duty if any Special Assessment for the funds necessary for the director, officer, or committee member to perform his or her fiduciary duty fails to be approved pursuant to this Section, and the Association shall indemnify such director, officer, or committee member against any damage resulting from any claimed breach of fiduciary duty arising therefrom.

8.5. Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to Units upon request of an Owner pursuant to any menu of special services which may be offered by the Association (which might include the items identified in Section 7.9). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Specific Assessment under this subsection (b).

The Association may also levy a Specific Assessment against the Units within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Governing Documents, provided the Board gives prior written notice to the Owners of Units in, or the Voting Member representing, the Neighborhood and an opportunity for such Owners or Voting Member to be heard before levying any such assessment.

8.6. Authority to Assess Owners; Time of Payment.

Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the first day of the month following: (a) the month in which the Unit is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base Assessment and Neighborhood Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Neighborhood Assessment shall be due and

payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

8.7. Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of Virginia law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Neighborhood Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, abandonment of his or her Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Upon written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) Declarant's Option to Fund Budget Deficits. During the Class "B" Control Period, Declarant may satisfy its obligation for assessments on Units which it owns either by paying such assessments in the same manner as any other Owner or by paying the difference between the amount of assessments levied on all other Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year. Unless Declarant otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year.

Regardless of Declarant's election, Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of the Class "B" Control Period, Declarant shall pay assessments on its unsold Units in the same manner as any other Owner.

8.8. Lien for Assessments.

The Association shall have a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges (subject to the limitations of Virginia law), and costs of collection (including attorneys' fees). Such lien shall have the priorities set forth in Section 55-516 of the Virginia Code, as amended, and when delinquent, may be perfected and enforced by suit, judgment, and/or foreclosure in the manner provided in Section 55-516 of the Virginia Code, as amended.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.6, including such acquirer, its successors and assigns.

8.9. Exempt Property.

The following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

(a) All Common Area and such portions of the property owned by Declarant as are included in the Area of Common Responsibility;

(b) Any property dedicated to and accepted by any governmental authority or public utility; and

(c) Property owned by any Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common.

In addition, Declarant and/or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for tax-exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

8.10. Capitalization of Association.

Upon acquisition of record title to a Unit by the first Owner thereof other than Declarant or a Builder, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth (1/6) of the annual Base Assessment per Unit for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to this Declaration and the By-Laws.

PART FOUR: COMMUNITY DEVELOPMENT

The Declaration reserves various rights to the developer in order to facilitate the smooth and orderly development of the Properties and to accommodate changes in the master plan which inevitably occur as a community the size of the Properties grows and matures.

Article IX Expansion of the Community

9.1. Expansion by Declarant.

Declarant may from time to time subject to the provisions of this Declaration all or any portion of the property described in Exhibit "B" by Recording a Supplemental Declaration describing the additional property to be subjected. A Supplemental Declaration Recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant.

Declarant's right to expand the Properties pursuant to this Section shall expire when all property described in Exhibit "B" has been subjected to this Declaration or 20 years after this Declaration is Recorded, whichever is earlier. Until then, Declarant may transfer or assign this right to any Person who is the developer of at least a portion of the real property described in Exhibits "A" or "B." Any such transfer shall be memorialized in a written, Recorded instrument executed by Declarant.

Nothing in this Declaration shall be construed to require Declarant or any successor to subject additional property to this Declaration or to develop any of the property described in Exhibit "B" in any manner whatsoever.

9.2. Expansion by the Association.

The Association may also subject additional property to the provisions of this Declaration by Recording a Supplemental Declaration describing the additional property. Any such Supplemental Declaration shall require the affirmative vote of Voting Members representing more than 50% of the Class "A" votes of the Association represented at a meeting duly called for such purpose and the consent of the owner of the property. In addition, so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant's consent shall be necessary. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property, and by Declarant, if Declarant's consent is necessary.

9.3. Additional Covenants and Easements.

Declarant may subject any portion of the Properties to additional covenants and easements, including covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Neighborhood Assessments. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subjected to this Declaration. If the property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.4. Effect of Filing Supplemental Declaration.

A Supplemental Declaration shall be effective upon Recording unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

Article X Additional Rights Reserved to Declarant

10.1. Withdrawal of Property.

Declarant reserves the right to amend this Declaration, so long as it has a right to annex additional property pursuant to Section 9.1, for the purpose of removing any portion of the Properties which has not yet been improved with structures from the coverage of this Declaration, provided such withdrawal does not reduce the total number of Units then subject to the Declaration by more than 10 percent. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

10.2. Marketing and Sales Activities.

Declarant and Builders authorized by Declarant may construct and maintain upon portions of the Common Area such facilities and activities as, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, model units, and sales offices. Declarant and authorized Builders shall have easements for access to and use of such facilities at no charge.

10.3. Right to Develop.

Declarant and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in the Properties acknowledges that Bay Creek at Cape Charles is a master planned community, the development of which is likely to extend over many years, and agrees not to protest, challenge, or otherwise object to (a) changes in uses or density of property outside the Neighborhood in which such Person holds an interest, or (b) changes in the Master Plan as it relates to property outside the Neighborhood in which such Person holds an interest.

10.4. Rights to Stormwater Runoff and Water Reclamation; Use of Effluent.

Declarant, its designees, successors, or assigns shall have the exclusive right to develop and utilize the ground and surface water resources of the Properties for any legal purpose, including the distribution and use of such water beyond the Properties. Such right shall include an easement over the Properties for access, and for installation and maintenance of facilities and equipment to capture and transport ground water, surface water, and stormwater runoff. Declarant's conveyance of any Unit to an Owner or parcel to a Builder does not include the Owner's or Builder's right to develop or utilize the ground, surface, or storm water resources within such Unit or parcel.

Declarant or its designee may establish programs for reclamation of stormwater runoff and wastewater for appropriate uses within or outside the Properties and may require Owners and occupants of Units to participate in such programs to the extent reasonably practical. No Owner or occupant shall have any right to compensation for water claimed or reclaimed from his or her Unit. Additionally, the Board may establish restrictions on or prohibit outside use of potable water within the Properties.

By the act of purchasing or occupying a Unit within the Properties, all Owners understand and irrevocably consent to the possibility of irrigation of the Common Area, other areas within the Properties, and areas adjacent to the Properties, including the privately-owned golf courses, with treated effluent, provided that the effluent emanates from an approved treatment plant with a current operating permit from the appropriate governmental agency.

10.5. Right to Approve Additional Covenants.

No Person shall Record any declaration of covenants, conditions, and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted Recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed and Recorded by Declarant.

10.6. Right to Approve Changes in the Properties' Standards.

No amendment to or modification of any Restrictions and Rules or Architectural Guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

10.7. Right to Transfer or Assign Declarant Rights.

Any or all of Declarant's special rights and obligations set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument which Declarant signs and Records. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to Record any written assignment unless necessary to evidence Declarant's consent to such exercise.

10.8. Exclusive Rights To Use Name of Development.

No Person shall use the name "Bay Creek at Cape Charles" or any derivative of such name or in logo or depiction in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name "Bay Creek at Cape Charles" in printed or promotional matter where such term is used solely to specify that particular property is located within the Properties and the Association shall be entitled to use the words "Bay Creek at Cape Charles" in its name.

10.9. Easement to Inspect and Right to Correct.

Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the Properties, including Units, and a perpetual non-exclusive easement of access throughout the Properties to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The Person exercising this easement shall promptly repair, at such Person's own expense, any damage resulting from such exercise.

10.10. Right to Notice of Design or Construction Claims.

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Properties in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless Declarant and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection.

10.11. Termination of Rights.

The rights contained in this Article shall not terminate until the earlier of (a) 40 years from the date this Declaration is Recorded, or (b) Recording by Declarant of a written statement that all sales activity has ceased.

PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

The nature of living in a planned community, with its wide array of properties and development types and its ongoing development activity, requires the creation of special property rights and provisions to address the needs and responsibilities of the Owners, Declarant, the Association, and others within or adjacent to the community.

Article XI Easements

11.1. Easements in Common Area.

Declarant grants to each Owner a non-exclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The Board's right to:
 - (i) adopt rules regulating use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
 - (ii) suspend the right of an Owner to use recreational facilities within the Common Area (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to the By-Laws;

(iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;

(iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;

(v) permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees, and guests upon payment of use fees established by the Board and designate other areas and facilities within the Area of Common Responsibility as open for the use and enjoyment of the public;

(vi) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Sections 17.6 and 19.4; and

(d) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Limited Common Areas," as described in Article XIII.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

11.2. Easements of Encroachment.

Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units or any Unit and any Private Amenity due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.3. Easements for Utilities, Etc.

(a) Installation and Maintenance. Declarant reserves for itself, so long as Declarant owns any property described in Exhibit "A" or "B" of this Declaration, and grants to the Association and all utility providers, perpetual non-exclusive easements throughout the Properties (but not through a structure) to the extent reasonably necessary for the purpose of:

(i) installing utilities and infrastructure to serve the Properties, cable and other systems for sending and receiving data and/or other electronic signals, security and similar systems, walkways, pathways and trails, drainage systems, street lights, and signage on property

which Declarant owns or within public rights-of-way or easements reserved for such purpose on Recorded plats;

(ii) inspecting, maintaining, repairing, and replacing the utilities, infrastructure, and other improvements described in Section 11.3(a)(i); and

(iii) access to read utility meters.

(b) Specific Easements. Declarant also reserves for itself the non-exclusive right and power to grant and Record such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described in Exhibits "A" and "B." The Owner of any property to be burdened by any easement granted pursuant to this subsection (b) shall be given written notice in advance of the grant. The location of the easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed, or conditioned.

(c) Minimal Interference. All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

11.4. Easements to Serve Additional Property.

Declarant hereby reserves for itself and its duly authorized agents, successors, assigns, and Mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property.

Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of their respective actions in connection with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof benefiting from such easement is not made subject to this Declaration, Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such Property.

11.5. Easements for Maintenance, Emergency, and Enforcement.

Declarant grants to the Association easements over the Properties as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2. The Association

shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance, and to inspect for the purpose of ensuring compliance with and enforcing the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

11.6. Easements for Lake and Pond Maintenance and Flood Water.

Declarant reserves for itself, the Association, and their successors, assigns, and designees, the non-exclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Area of Common Responsibility to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Area of Common Responsibility; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard. Declarant, the Association, and their successors, assigns, and designees shall have an access easement over and across any of the Properties abutting or containing bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.

Declarant further reserves for itself, the Association, and their successors, assigns, and designees, a perpetual, non-exclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within 100 feet of bodies of water and wetlands within the Properties, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Properties; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Area of Common Responsibility; and (c) maintain and landscape the slopes and banks pertaining to such areas. All persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to hurricanes, heavy rainfall, or other natural occurrences.

11.7. Easements for Golf Course.

Every Unit and the Common Area and the common property of any Neighborhood Association are burdened with an easement permitting golf balls unintentionally to come upon such areas, and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Neighborhood, or the exterior portions of a Unit to retrieve errant golf balls; provided, however, if any Unit is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: Declarant; the Association or its Members (in their capacities as such); the owner and/or operator of any golf course; any Builder or contractor (in their capacities as such); any successor, successor-in-title, assign, officer, director, or partner of any of the foregoing, or any officer or director of any partner.

The owner and/or operator of any golf course within or adjacent to any portion of the Properties, its agents, successors, and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Areas reasonably necessary to the operation, maintenance, repair, and replacement of its golf course.

Any portion of the Properties immediately adjacent to any golf course is hereby burdened with a non-exclusive easement in favor of the adjacent golf course for overspray of water from the irrigation system serving such golf course. Under no circumstances shall the Association or the owner and/or operator of such golf course be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

The owner and/or operator of any golf course within or adjacent to any portion of the Properties, its successors and assigns, shall have a perpetual, exclusive easement of access over the Properties for the purpose of retrieving golf balls from bodies of water within the Common Areas lying reasonably within range of golf balls hit from its golf course.

11.8. Easement to Inspect and Right to Correct.

Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the Properties, including Units, and a perpetual, non-exclusive easement of access throughout the Properties to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The Person exercising this easement shall promptly repair, at such Person's own expense, any damage resulting from such exercise.

Article XII Environmental Areas and Issues

12.1. Assignment of Responsibilities.

Within and adjacent to the Properties there are various types of property such as wetlands, drainage areas, conservation areas, preserves, open spaces, and buffers upon which restrictions, monitoring requirements, or other obligations may be imposed by governmental agencies. Declarant may from time to time and at any time deed, convey, transfer, or assign any or all of the foregoing areas or responsibilities to the Association, which shall accept, own, maintain, and preserve the foregoing areas in accordance with the requirements of such agencies. All such areas that are conveyed to the Association shall become a portion of the Common Area, and the costs of ownership, operation, and maintenance thereof shall be a Common Expense. Alternatively, Declarant may deed, convey, transfer, or assign any or all of the foregoing areas or responsibilities to another community association, a foundation, or similar type non-profit entity with which the Association shall cooperate.

12.2. Surface Water Management System.

(a) No structure of any kind shall be constructed or erected, nor shall an Owner in any way change, alter, impede, revise, or otherwise interfere with the flow and the volume of water in any portion of the ponds, lakes, wetlands, creeks, retention areas, or other bodies of water or waterways reserved for, or intended by Declarant to be reserved for, drainage ways or for the accumulation of runoff waters, as reflected in any permits therefor, or plat or instrument of record, without the specific written permission of the Association and Declarant.

(b) An Owner or Neighborhood Association shall in no way deny or prevent ingress and egress by Declarant or the Association to such drainage areas for maintenance or landscape purposes. The right of ingress and egress, and easements therefor are hereby specifically reserved and created in favor of Declarant, the Association, or any appropriate governmental or quasi-governmental agency that may reasonably require such ingress and egress.

(c) No Unit shall be increased in size by filling in any water retention or drainage areas which it abuts. Owners shall not fill, dike, rip-rap, block, divert, or change the established drainage ways without the prior written consent of the Association and Declarant.

(d) Water management for any Unit or Neighborhood shall be provided in accordance with the overall drainage system for the Properties. Surface water drainage and management, including, but not limited to, storm water treatment and storage capacity, shall conform to the overall drainage system requirements and permits, if any, for the Properties and meet with the approval of Declarant and applicable governmental agencies.

(e) Lakes, ponds, and spillways in any Neighborhood or Unit are part of a functioning water management system and any use by an Owner or Neighborhood Association shall be on a non-interfering basis only. Additional on-site stormwater treatment areas may be required and constructed in the future.

(f) The use of any lake, pond, or wetland within the boundary of a Neighborhood or Unit is managed by the Association. Owners shall cooperate in maintaining the same in a clean and aesthetically-pleasing condition.

(g) The use of pesticides in any lake, pond, or wetland is prohibited, excepting only any such use by the Association and Declarant.

(h) No wells may be drilled, dug, or installed within any Unit or Neighborhood except by the Declarant or with the Declarant's written consent.

12.3. Preserves and Conservation Areas.

Any portions of the Common Area designated as a preserve or conservation area shall be maintained and preserved by the Association in accordance with the rules and regulations of all applicable governmental agencies. The Association shall not, and it shall not allow any Person to, undertake or perform any activity or improvements to a preserve or conservation area, or

remove any native vegetation, without the prior approval of such agencies. No excavation, placement of debris, dumping, construction, or other activity shall be permitted in a preserve or conservation area.

12.4. Open Space and Buffers.

Any property conveyed or dedicated to the Association, which is designated as open space, landscape buffer, preserve area, or conservation area on any plat, permit, or other Recorded document, shall be owned and maintained by the Association in a natural open condition. The Association or any subsequent owner shall not do anything that diminishes or destroys the open space, buffer, preserve area, or conservation area, and such areas shall not be developed for any purpose except that which improves or promotes the use and enjoyment of such areas as open space.

12.5. Shorelines and Water's Edge.

No Owner, by virtue of ownership of property adjacent to a shoreline shall have any right superior to that of other Owners (or the general public, to the extent that the public has a right of access) to use or control any shorelines within the Properties. All shorelines within the Properties shall be subject to the Association's control.

No Owner of a Unit bordering a lake, pond, or other body of water within the Properties shall construct, install, erect, or maintain any walls or other improvements along such lake, pond, or body of water

12.6. Recycling Program.

The Board may, but shall not be obligated to, establish a recycling program for the Properties. In such event, all occupants of Units shall support such program by recycling, to the extent reasonably practical, all materials which the Association's recycling program is set up to accommodate. The Association may, but shall have no obligation to, purchase recyclable materials in order to encourage participation. Any cost associated with the implementation or operation of a recycling program shall be a Common Expense and any income which the Association receives as a result of such recycling efforts shall be used to reduce Common Expenses.

Article XIII Limited Common Areas

13.1. Purpose.

Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Neighborhood or Neighborhoods. By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes, and other portions of the Common Area within a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, and insurance of a

Limited Common Area shall be a Neighborhood Expense allocated among the Owners in the Neighborhood(s) to which the Limited Common Areas are assigned.

13.2. Designation.

Initially, any Limited Common Area shall be designated as such in the deed conveying such area to the Association or on the subdivision plat relating to such Common Area; provided, however, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Units and/or Neighborhoods, so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1.

Thereafter, a portion of the Common Area may be assigned as Limited Common Area and Limited Common Area may be reassigned upon approval of the Board and the vote of Voting Members representing a majority of the total Class "A" votes in the Association, including a majority of the Class "A" votes within the Neighborhood(s) affected by the proposed assignment or reassignment. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, any such assignment or reassignment shall also require Declarant's written consent.

13.3. Use by Others.

Upon approval of a majority of Owners of Units within the Neighborhood to which any Limited Common Area is assigned, the Association may permit Owners of Units in other Neighborhoods to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Neighborhood Expenses attributable to such Limited Common Area.

Article XIV Party Walls and Other Shared Structures

14.1. General Rules of Law to Apply.

Each wall, fence, driveway, or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Any dispute arising concerning a party structure shall be handled in accordance with the provisions of Article XV.

14.2. Maintenance; Damage and Destruction.

The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure,

they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

The growth and success of Bay Creek at Cape Charles as a community in which people enjoy living, working, and playing requires good faith efforts to resolve disputes amicably, attention to and understanding of relationships within the community and with our neighbors, and protection of the rights of others who have an interest in the community.

Article XV Dispute Resolution and Limitation on Litigation

15.1. Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Association and its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Properties without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 15.2 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to

- (i) the interpretation, application, or enforcement of the Governing Documents;
- (ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or
- (iii) the design or construction of improvements within the Properties, other than matters of aesthetic judgment under Article IV, which shall not be subject to review;

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 15.2:

- (i) any suit by the Association to collect assessments or other amounts due from any Owner;
- (ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to

maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Declaration (relating to creation and maintenance of community standards);

(iii) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(iv) any suit in which any indispensable party is not a Bound Party; and

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 15.2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

15.2. Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;

(ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice described in Section 15.2(a) (or within such other period as the parties may agree upon), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Northampton County area.

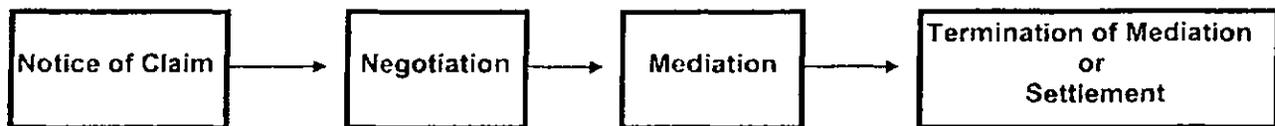
If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the

Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all fees charged by the mediator.

Alternative Dispute Resolution Process



(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

15.3. Initiation of Litigation by Association.

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of Voting Members entitled to cast 75% of the total Class "A" votes in the Association, except that no such approval shall be required for actions or proceedings:

- (a) initiated during the Class "B" Control Period;
- (b) initiated to enforce the provisions of this Declaration, including collection of assessments and foreclosure of liens;
- (c) initiated to challenge ad valorem taxation or condemnation proceedings;
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or

(e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

Article XVI Private Amenities

16.1. General.

Neither membership in the Association nor ownership or occupancy of a Unit shall confer any ownership interest in or right to use any Private Amenity. Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined from time to time by the respective owners of the Private Amenities. The owners of the Private Amenities shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the terms of any written agreements with their respective members.

16.2. Conveyance of Private Amenities.

All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by Declarant, the Association, any Builder, or by any Person acting on behalf of any of the foregoing, with regard to the continuing ownership or operation of any Private Amenity. No purported representation or warranty in such regard, either written or oral, shall be effective unless specifically set forth in a written instrument executed by the record owner of such Private Amenity. The ownership or operation of the Private Amenities may change at any time by virtue of, but without limitation, (a) the sale to or assumption of operations of any Private Amenity by a Person other than the current owner or operator; (b) the establishment of, or conversion of the membership structure to, an "equity" club or similar arrangement whereby the members of the Private Amenity or an entity owned or controlled by its members become the owner(s) and/or operator(s) of the Private Amenity; or (c) the conveyance of any Private Amenity to one or more of Declarant's affiliates, shareholders, employees, or independent contractors. Consent of the Association, any Neighborhood Association, any Voting Member, or any Owner shall not be required to effectuate any change in ownership or operation of any Private Amenity, for or without consideration and subject to or free of any mortgage, covenant, lien, or other encumbrance.

16.3. View Impairment.

Declarant, the Association, or the owner of any Private Amenity, does not guarantee or represent that any view over and across a Private Amenity from Units adjacent to the Private Amenity will be preserved without impairment. Owners of the Private Amenities, if any, shall

have no obligation to prune or thin trees or other landscaping, and shall have the right, in their sole and absolute discretion, to add trees and other landscaping to the Private Amenities from time to time. In addition, the owner of any Private Amenity which includes a golf course may, in its sole and absolute discretion, change the location, configuration, size, and elevation of the trees, bunkers, fairways, and greens from time to time. Any such additions or changes may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

16.4. Rights of Access and Parking.

There is hereby established for the benefit of the Private Amenities and their members (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors, and designees, a right and non-exclusive easement of access and use over all roadways located within the Properties reasonably necessary to travel between the entrance to the Properties and each Private Amenity and over those portions of the Properties (whether Common Area or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of each Private Amenity. Without limiting the generality of the foregoing, members of the Private Amenities and guests and invitees of the Private Amenities shall have the right to park their vehicles on the roadways located within the Properties at reasonable times before, during, and after tournaments and other similar functions held by or at the Private Amenities to the extent that such Private Amenities have insufficient parking to accommodate such vehicles.

16.5. Rights and Easements Relating to Lakes and Ponds.

The lakes and ponds within the Properties shall serve as visual amenities for the Private Amenities. The owner and/or operator of any Private Amenity and its agents, employees, or designees shall have a non-exclusive right and easement to enter upon the lakes, ponds, wetlands, and other bodies of water located within the Area of Common Responsibility to install, operate, maintain, and replace pumps to supply irrigation water to the Private Amenity. The owner and/or operator of each Private Amenity and its agents, employees, or designees shall have an access easement over and across any of the Properties (excluding dwellings) abutting or containing bodies of water or wetlands to the extent reasonably necessary to maintain, operate, or improve such Private Amenity or to exercise its rights under this Section.

16.6. Golf Tournaments.

Golf tournaments or similar functions may be held at any Private Amenity within or adjacent to any portion of the Properties from time to time to which members of the public will be invited as spectators or participants. Each Owner acknowledges that certain inconveniences to Owners may result from holding such tournaments. The types of inconveniences occurring during such tournaments may include, by way of example and not limitation, construction by Declarant, the owner and/or operator of the Private Amenity, or tournament operators or sponsors, of television towers or other structures on the Private Amenity property which would be visible from the Units and which may obstruct the view of the Private Amenity from the Units; noise associated with the construction and destruction of structures and equipment associated with such tournaments; encroachment on a Unit by spectators; and other

inconveniences relating to or caused by spectators, golfers, and others involved with the operation of tournaments.

Each Owner, including Owners of Units adjacent to any such Private Amenity, further acknowledges that Declarant, the Association, the owner and/or operator of such Private Amenity, or any other entity makes no representations that Owners will be afforded any rights to view or attend such tournaments or functions other than such rights as are afforded members of the general public.

16.7. Assessments.

In consideration of the fact that the Private Amenities will benefit from maintenance of the roads, rights-of-way, and Common Areas within the Properties, the Private Amenities shall be obligated to pay assessments to the Association as provided in Article VIII. In addition, the Association may enter into a contractual arrangement or covenant to share costs with any Private Amenity obligating such Private Amenity to contribute funds for, among other things, shared property or services and/or a higher level of Common Area maintenance.

16.8. Architectural Control.

Declarant, the Association, any Neighborhood Association, or any committee shall not approve any construction, addition, alteration, change, or installation on or to any portion of the Properties which is adjacent to, or otherwise in the direct line of sight of, any Private Amenity without giving the Private Amenity at least 15 days' prior written notice of its intent to approve the same together with copies of the request and all other documents and information finally submitted in such regard. The Private Amenity shall then have 15 days to respond in writing approving or disapproving the proposal, stating in detail the reasons for any disapproval. The failure of the Private Amenity to respond to the notice within the 15-day period shall constitute a waiver of the Private Amenity's right to object to the matter. This Section shall also apply to any work on the Common Area or any common property or common elements of a Neighborhood Association, if any.

16.9. Limitations on Amendments.

In recognition of the fact that the provisions of this Article are for the benefit of the Private Amenities, no amendment to this Article, and no amendment in derogation of any other provisions of this Declaration benefiting any Private Amenity, may be made without the written approval of such Private Amenity. The foregoing shall not apply, however, to amendments made by Declarant.

16.10. Jurisdiction and Cooperation.

It is Declarant's intention that the Association and the Private Amenities shall cooperate to the maximum extent possible in the operation of the Properties and the Private Amenities. Each shall reasonably assist the other in upholding the Community-Wide Standard as it pertains to maintenance and the Architectural Guidelines. The Association shall have no power to

promulgate Restrictions and Rules other than those set forth in Exhibit "C" affecting activities on or use of the Private Amenities without the prior written consent of the owners of the Private Amenities affected thereby.

16.11. Assumption of Risk and Indemnification.

Each Owner, by its purchase of a Unit in the vicinity of any Private Amenity within or adjacent to any portion of the Properties, hereby expressly assumes the risk of noise, personal injury, or property damage caused by maintenance and operation of such Private Amenity, including, without limitation: (a) noise from maintenance equipment (it being specifically understood that such maintenance typically takes place around or before sunrise or after sunset), (b) noise caused by golfers, (c) use of pesticides, herbicides, and fertilizers, (d) view restrictions caused by maturation of trees and shrubbery, (e) use of effluent in the irrigation of such Private Amenity, (f) reduction in privacy caused by constant golf traffic on such Private Amenity or the removal or pruning of shrubbery or trees on such Private Amenity, (g) errant golf balls and golf clubs, and (h) design of such Private Amenity.

Each Owner agrees that Declarant, the Association, any entity owning or managing a Private Amenity, and any affiliate, agent, successor, successor-in-title, or assign of any of the foregoing entities, shall not be liable to any Owner claiming *any* loss or damage based upon, due to, arising from, or otherwise related to the proximity of such Owner's Unit to such Private Amenity or the management thereof. Each Owner hereby agrees to indemnify and hold harmless Declarant, the Association, and any entity owning or managing such Private Amenity against any and all claims by Owner's occupants, visitors, tenants, and others coming upon such Owner's Unit.

Article XVII Mortgage Provisions

The following provisions are for the benefit of holders, insurers, and guarantors of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

17.1. Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or occupant which is not cured within 60 days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

17.2. Other Provisions for First Lien Holders.

To the extent not inconsistent with Virginia law:

(a) Any restoration or repair of the Properties after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

17.3. No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

17.4. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

17.5. Failure of Mortgagee to Respond.

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

17.6. HUD/VA Approval.

As long as there is a Class "B" membership, the following actions shall require the prior approval of the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs, if either such agency is insuring or guaranteeing the Mortgage on any Unit: merger, consolidation, or dissolution of the Association; annexation of additional property other than that described in Exhibit "B"; dedication, conveyance, or mortgaging of Common Area; or material amendment of this Declaration or the By-Laws. The granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a conveyance within the meaning of this Section.

PART SEVEN: CHANGES IN THE COMMUNITY

Communities such as Bay Creek at Cape Charles are dynamic and constantly evolving as circumstances, technology, needs and desires, and laws change, as the residents age and change over time, and as the surrounding community changes. Bay Creek at Cape Charles and its Governing Documents must be able to adapt to these changes while protecting the things that make Bay Creek at Cape Charles unique.

Article XVIII Changes in Ownership of Units

Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

Article XIX Changes in Common Area

19.1. Condemnation.

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Members representing at least 67% of the total Class "A" votes in the Association and of Declarant, as long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking, Declarant, so long as Declarant owns any property subject to the

Declaration or which may be made subject to the Declaration in accordance with Section 9.1, and Voting Members representing at least 75% of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.3(c) regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

19.2. Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action to partition any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

19.3. Transfer or Dedication of Common Area.

The Association may dedicate portions of the Common Area to Northampton County, the Town of Cape Charles, or to any other local, state, or federal governmental or quasi-governmental entity, subject to such approval as may be required by Sections 17.6 and 19.4.

19.4. Actions Requiring Owner Approval.

If either the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs insures or guarantees the Mortgage on any Unit, then the following actions shall require the prior approval of Voting Members representing not less than two-thirds (2/3) of the total Class "A" votes in the Association and the consent of the Class "B" Member, if such exists: merger, consolidation, or dissolution of the Association; annexation of additional property other than that described in Exhibit "B;" and dedication, conveyance, or mortgaging of Common Area. Notwithstanding anything to the contrary in Section 19.1 or this Section, the Association, acting through the Board, may grant easements over the Common Area for installation and maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Common Area, without the approval of the membership.

Article XX Amendment of Declaration

20.1. By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration, until conveyance of the first Unit to a Person other than a Builder, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable

governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state, or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

In addition, so long as Declarant owns property described in Exhibits "A" or "B" for development as part of the Properties, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon the rights of more than 2% of the Owners.

20.2. By Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 75% of the total Class "A" votes in the Association, including 75% of the Class "A" votes held by Members other than Declarant, and Declarant's consent, so long Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1. In addition, the approval requirements set forth in Article XVII shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

20.3. Validity and Effective Date.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon Recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its Recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

20.4. Exhibits.

Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by this Article. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration on the 1st day of February, 2000.

DECLARANT: **BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation**

By: Richard S. Foster
Name: Richard S. Foster
Its: President

~~XXXXXX~~
~~XXXXXX~~
~~XXXXXX~~

STATE OF VIRGINIA
CITY OF VIRGINIA BEACH
~~COUNTY OF NEW KENT~~

The foregoing instrument was acknowledged before me this 1st day of February, 2000, by Richard S. Foster as President of Baymark Construction Corporation, a Virginia corporation, on behalf of the corporation.

[Signature]
Notary Public

My Commission Expires: October 31, 2002



EXHIBIT "A"

Land initially Submitted

NEIGHBORHOOD DESIGNATION: See Below**

ALL THOSE CERTAIN PIECES OR PARCELS OF LAND LOCATED AND SITUATED IN THE TOWN OF CAPE CHARLES, VIRGINIA, MAKING UP ALL OF BOTH BAY CREEK at Cape Charles PHASE ONE and BAY CREEK at Cape Charles PHASE TWO, AND PARCEL B OF THE MARTIN TRACT AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A.

Parcels designated as a part of BAY CREEK at Cape Charles PHASE TWO and PHASE ONE amended as shown on plat entitled "SUBDIVISION OF BAY CREEK at Cape Charles PHASE TWO & AMENDED SUBDIVISION OF BAY CREEK at CAPE CHARLES PHASE ONE for BAYMARK CONSTRUCTION CORPORATION, REF. D.B.177 PG.431 M.B.26 Pg.49 M.B.26 Pg.62, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA" dated 2/25/99 and being duly recorded in Map Book 27 Pages 26-44 in the Clerk's Office of the Circuit Court of Northampton County, Virginia, reference to said plat is hereby made for a more particular description, included parcels are as follows:

AMENDED PHASE ONE PARCELS:

- Road Parcel-1
- Road Parcel-2
- Maintenance Facility Parcel
- Community Center Parcel
- Clubhouse Parcel
- Golf Academy Parcel
- Practice Range Parcel
- Course Parcel 1A-9A
- Course Parcel 1B, 5B-9B
- Course Parcel 1C-9C
- Course Parcel 1D-8D
- Course Parcel 2B-4B
- Course Parcel 9D
- Parcel H
- Parcel I
- Parcel O

**NEIGHBORHOOD DESIGNATION: At the time of recordation of this Declaration, all of the property described in Exhibit "A" shall constitute a single Neighborhood.

PHASE TWO PARCELS:

- Parcel KK
- Parcel K
- Parcel G
- Parcel F
- Road Parcel 3

B.

Parcel designated as PARCEL B as shown on plat entitled "SUBDIVISION OF PROPERTY OF BETTY JEAN F. MARTIN D.B.160, PG.287 D.B.113 PG.482(PLAT) FOR: BROWN & ROOT, Inc., TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA" dated 4/13/98 and being duly recorded in Map Book 26 Page 2 in the Clerk's Office of the Circuit Court of Northampton County, Virginia, reference to said plat is hereby made for a more particular description.

EXHIBIT "B"
Land Subject to Annexation

ALL THOSE CERTAIN PIECES OR PARCELS OF LAND LOCATED AND SITUATED IN THE TOWN OF CAPE CHARLES, VIRGINIA, KNOWN AND DESIGNATED AS PARCELS "A", "B", and "C" as shown on plat entitled "PLAT SHOWING BOUNDARY SURVEY OF THE PROPERTY OF BROWN AND ROOT, INC. (D.B. 177 PG. 431), TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA" dated 12/23/98 and being duly recorded in Map Book 26 Pages 49-61 in the Clerk's Office of the Circuit Court of Northampton County, Virginia, (reference to said plat is hereby made for a more particular description) EXCLUDING ALL THOSE CERTAIN PIECES OR PARCELS OF LAND MAKING UP ALL OF BOTH BAY CREEK at Cape Charles PHASE ONE and BAY CREEK at Cape Charles PHASE TWO, AND PARCEL B OF THE MARTIN TRACT as described in EXHIBIT "A" herein.

EXHIBIT "C"

Initial Restrictions and Rules

The following restrictions shall apply to all of the Properties until such time as they are amended, modified, repealed, or limited pursuant to Article III of the Declaration.

1. General. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by Declarant to assist in the sale of property described in Exhibits "A" or "B," offices for any property manager retained by the Association, or business offices for Declarant or the Association) consistent with this Declaration and any Supplemental Declaration.

2. Restricted Activities. The following activities are prohibited within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

(a) Parking any vehicles on public or private streets or thoroughfares, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats, and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages; provided, construction, service, and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Area;

(b) Raising, breeding, or keeping animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit; however, those pets which are permitted to roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law;

(c) Any activity which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Units;

(d) Any activity which violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(e) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit;

(f) Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;

(g) Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Unit;

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;

(i) Use and discharge of firecrackers and other fireworks;

(j) Dumping grass clippings, leaves, or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Properties, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Declarant and Builders may dump and bury rocks and trees removed from a building site on such building site;

(k) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;

(l) Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent;

(m) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and Recorded, except that Declarant shall be permitted to subdivide or replat Units which it owns;

(n) Swimming, boating, use of personal flotation devices, or other active use of lakes, ponds, streams, or other bodies of water within the Properties (excluding the community beach), except that fishing from the shore of such bodies of water shall be permitted with appropriate licenses and Declarant, its successors and assigns, shall be permitted and shall have the exclusive right and easement to retrieve golf balls from bodies of water within the Common Areas and to draw water from lakes, ponds, and streams within the Properties for purposes of irrigation and such other purposes as Declarant shall deem desirable. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of the community beach, lakes, ponds, streams, or other bodies of water within or adjacent to the Properties;

(o) Use of any Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program with respect to Units which it owns;

(p) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(q) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Article IV;

(r) Any business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for the Properties; (iii) the business activity does not involve door-to-door solicitation of residents of the Properties; (iv) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in the Properties which is noticeably greater than that which is typical of Units in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

Leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties, including the operation of a timeshare or similar program;

(s) Capturing, trapping, or killing of wildlife within the Properties, except in circumstances posing an imminent threat to the safety of persons using the Properties;

(t) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Properties or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(u) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Article IV;

(v) Operation of motorized vehicles on pathways or trails maintained by the Association, except that golf carts may be operated on cart paths intended for such purposes; and

(w) Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article IV of the Declaration. This shall include, without limitation, signs, basketball hoops, swing sets, and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers, and similar structures; hedges, walls, dog runs, or animal pens; and satellite dishes and antennas, except that:

(i) an antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter;

(ii) an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

(iii) an antenna that is designed to receive television broadcast signals;

(collectively, "Permitted Antennas") shall be permitted on Units, subject to such reasonable requirements as to location and screening as may be set forth in the Architectural Guidelines, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Properties, should any master system or systems be utilized by the Association and require such exterior apparatus.

3. Prohibited Conditions. The following shall be prohibited at the Properties:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties; and

(b) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair.

4. Leasing of Units. "Leasing," for purposes of this Paragraph, is defined as regular, exclusive occupancy of a Unit by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. All leases shall be in writing. The Board may require a minimum lease term, which requirements may vary from Neighborhood to Neighborhood.

Each Owner desiring to lease his or her Unit shall use a leasing company that satisfies all of the following requirements: (a) is licensed; (b) is familiar with the Bay Creek at Cape Charles community; (c) is familiar with the Governing Documents, including advertising policies, pet restrictions, leasing restrictions, and all other covenants, conditions, restrictions, rules, and regulations applicable to Bay Creek at Cape Charles; and (d) meets such other reasonable requirements as the Board may establish. The Board's determination, made in its reasonable business judgment, as to whether a leasing company satisfies all such requirements shall be conclusive and binding. The Board shall provide the name(s) of such qualifying leasing companies to each Unit Owner upon request.

The Board may require a security deposit, in such amount as the Board reasonably determines adequate, to ensure each lessee's and occupant's compliance with the Governing Documents and to cover the costs of any damage to or destruction of the Common Areas or other property within Bay Creek at Cape Charles. Notwithstanding the above, collection of a security deposit shall in no way limit the Board's right to assess and collect the entire repair or replacement costs or pursue other enforcement remedies against the violator, lessee, or Owner, as appropriate. The Board may also impose an administrative fee on each lease in an amount reasonably based on the costs to the Association of administering that lease.

Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the leasing company within 10 days of execution of the lease. The Board may require the leasing company to use the Association's lease package, which shall include the lease; a copy of the Declaration, By-Laws, and the Restrictions and Rules; a signed statement from the lessee agreeing to comply with the Governing Documents; and such other information relating to the lease or lessee as the Board may reasonably require.

002044

AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 18th day of October, 2000, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"). GRANTOR: also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions: it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, Article XX, Section 20.1 of the Declaration provides, in part, that the Declarant, so long as it owns property described in Exhibits A or B of the Declaration for development, may unilaterally amend the Declaration for any purpose, provided the amendment has no material adverse affect upon the rights of more than 2% of the Owners, as defined in the Declaration; that as of the date hereof, there is only one Owner other than the Successor Declarant, being less than 2% thereof; and

WHEREAS, Article VIII, Section 8.10 of the Declaration provides, in part, for an initial capitalization of the Association in an amount equal to one-sixth (1/6) of the annual Base Assessment per Unit, payable as more particularly described in said Section and Declarant wishes to amend said initial capitalization as set forth in this Amendment;

NOW THEREFORE, pursuant to said Article XX, Section 20.1 and pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, the Successor Declarant does hereby amend the third line of said Article VIII, Section 8.10 so that the words "one-sixth (1/6)" in said third line are deleted and replaced with the words "one-fourth (1/4)" and in all other respects said Section shall remain in full force and effect.

Except as modified by this Amendment, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 18th day of October, 2000.

Robert Arnold
Notary Public

My Commission Expires: 7-31-2004



INSTRUMENT #000002044
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
OCTOBER 20, 2000 AT 03:35PM
KENNETH F. ARNOLD, CLERK

BY: Kenneth F. Arnold (DC)

00538

AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 15th day of March, 2001, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, Article XX, Section 20.1 of the Declaration provides, in part, that the Declarant, so long as it owns property described in Exhibits A or B of the Declaration for development, may unilaterally amend the Declaration for any purpose, provided the amendment has no material adverse affect upon the rights of more than 2% of the Owners, as defined in the Declaration; that, as of the date hereof, Owners other than the Successor Declarant constitute less than 2% of the Owners; and

WHEREAS, Article XII, Section 12.2(d) of the Declaration addresses certain water management issues and Declarant wishes to amend said Section by adding additional language thereto, as set forth in this Amendment;

NOW THEREFORE, pursuant to said Article XX, Section 20.1 of the Declaration and pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, the Successor Declarant does hereby amend Section 12.2(d) of Article

Parcel Numbers: SEE ATTACHED EXHIBIT A

XII by adding the following sentence thereto: "Water for landscape irrigation throughout the Community shall be derived from ground-water wells and no municipal source of water shall be used for such irrigation."; in all other respects said Section shall remain in full force and effect.

Except as modified by this Amendment, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 15th day of March, 2001.

William A. Workman
Notary Public

My Commission Expires: January 31, 2003

EXHIBIT A: PARCEL NUMBERS

00090 (02) 00 000H
00090 (02) 00 000I
00090 (02) 00 000O
00090 (02) 00 001
00090 (02) 00 001A
00090 (02) 00 001B
00090 (02) 00 001C
00090 (02) 00 001D
00090 (02) 00 001F
00090 (02) 00 001G
00090 (02) 00 001H
00090 (02) 00 001I
00090 (02) 00 001J
00090 (02) 00 002
00090 (02) 00 002B
00090 (02) 00 009D
00090 (03) 00 000B
00090 (0A) 00 000F
00090 (0A) 00 000G
00090 (0A) 00 000K

INSTRUMENT #010000538
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MARCH 17, 2001 AT 01:11PM
KENNETH F. ARNOLD, CLERK

BY: *Kenneth F. Arnold* (KAC)

AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 5th day of September, 2001, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, Article XX, Section 20.1 of the Declaration provides, in part, that the Declarant, so long as it owns property described in Exhibits A or B of the Declaration for development, may unilaterally amend the Declaration for any purpose, provided the amendment has no material adverse affect upon the rights of more than 2% of the Owners, as defined in the Declaration; that, as of the date hereof, Owners other than the Successor Declarant constitute less than 2% of the Owners; and

WHEREAS, Exhibit C to the Declaration sets forth the Initial Restrictions and Rules applicable to the Properties and Declarant wishes to amend said Exhibit C by adding an additional provision to Paragraph 4 and by adding Paragraph 5 thereto, the same having been erroneously omitted from Exhibit C due to a scrivener's error;

NOW THEREFORE, pursuant to said Article XX, Section 20.1 of the Declaration and pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, the Successor Declarant does hereby amend Exhibit C appended to the

Parcel Numbers: SEE ATTACHED EXHIBIT A

Declaration by [i] adding the following provision to Paragraph 4 "The use of any sign for the purpose of renting or leasing a Unit is prohibited."; and [ii] adding to Exhibit C the following paragraph: "5. Sale of Units by Real Estate Agents/Brokers. Each Owner desiring to offer his or her Unit for sale to the general public through a real estate agent/broker shall list said Unit for sale with a duly licensed real estate company that satisfies all of the following requirements: (a) is licensed by the appropriate licensing agency of the Commonwealth of Virginia, (b) is familiar with the Bay Creek at Cape Charles community, (c) is familiar with the Governing Documents and all other covenants, conditions, restrictions, rules and regulations applicable to Bay Creek at Cape Charles, and (d) meets such other reasonable requirements as the Board may establish. The Board's determination, made in its reasonable business judgment, as to whether a real estate company satisfies all such requirements shall be conclusive and binding. The use of any sign for the purpose of identification or selling of a Unit, is prohibited, except signs offering a Unit for sale erected by a builder during the ordinary course of construction."

Except as modified by this Amendment, all of the conditions, terms and provisions of the Declaration, and the Exhibits thereto, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 5th day of September, 2001.

William A. Workman
Notary Public

My Commission Expires: January 31, 2003

EXHIBIT A: PARCEL NUMBERS

00090 (02) 00 000H
00090 (02) 00 000I
00090 (02) 00 000O
00090 (02) 00 001
00090 (02) 00 001A
00090 (02) 00 001B
00090 (02) 00 001C
00090 (02) 00 001D
00090 (02) 00 001F
00090 (02) 00 001G
00090 (02) 00 001H
00090 (02) 00 001I
00090 (02) 00 001J
00090 (02) 00 002
00090 (02) 00 002B
00090 (02) 00 009D
00090 (03) 00 000B
00090 (0A) 00 000F
00090 (0A) 00 000G
00090 (0A) 00 000K

INSTRUMENT #010001945
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
SEPTEMBER 10, 2001 AT 10:54AM
KENNETH F. ARNOLD, CLERK

BY: *Kenneth F. Arnold* (DC)

*This Instrument Prepared
By and Return to:
Pender & Coward, P.C. (DJG)
222 Central Park Avenue
Virginia Beach, Virginia 23462*

**AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BAY CREEK AT CAPE CHARLES**

THIS AMENDMENT (the "Amendment") TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, made this 30th day of November, 2004, by **BAY CREEK, L.L.C.**, a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of **BAYMARK CONSTRUCTION CORPORATION**, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia, to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES";

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument;

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, Article XX, Section 20.1 of the Declaration provides, in part, that the Declarant, so long as it owns property described in Exhibits A or B of the Declaration for development, may unilaterally amend the Declaration for any purpose, provided the amendment has no material adverse effect upon the rights of more than 2% of the Owners, as defined in the Declaration; that, as of the date hereof, Owners other than the Successor Declarant constitute less than 2% of the Owners or this Amendment has no material adverse effect upon more than 2% of the Owners, to-wit: this Amendment shall provide for a time period for completion of construction for any project for which Plans have been approved.

Parcel Numbers: 00090-02-00-000H See Attached Exhibit A for additional numbers.

NOW THEREFORE, pursuant to said Article XX, Section 20.1 of the Declaration and pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, the Successor Declarant does hereby amend the Declaration as follows:

1. The second and third sentences of the seventh (7th) paragraph of Article IV, Section 4.3(b), shall be modified so that same reads as follows:

Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed and, if the improvement constructed is a Unit, a certificate of occupancy shall issue to an Owner other than a Builder, within nine (9) months of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing prior to the expiration of such nine (9) month period, which it shall not be obligated to do.

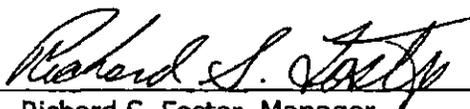
2. A fifth (5th) sentence shall be added to the seventh (7th) paragraph of Article IV, Section 4.3(b), as follows:

If the Association, or, during the Class B Control Period, the Declarant, determines, in its sole and absolute discretion, that any Project for which approval shall have been given is not proceeding diligently toward substantial completion, the Association may require the Owner to provide not less than monthly reports reflecting the percentage (%) of progress made. If such reports or information are not provided as requested, the approval of the Plans may be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing any activities.

Except as modified by this Amendment, all of the conditions, terms and provisions of the Declaration, and the Exhibits thereto, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

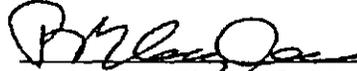
BAY CREEK, L.L.C.,
a Virginia limited liability company

By 
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA

CITY OF VIRGINIA BEACH, to-wit

I the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 30 day of NOVEMBER, 2008.



Notary Public

My Commission Expires: _____

My Commission Expires 4-30-2008

EXHIBIT A

BAY CREEK

00090-02-00-000H
00090-02-00-001
00090-02-00-001A
00090-02-00-001B
00090-02-00-001B
00090-02-00-001C
00090-02-00-001D
00090-02-00-001F
00090-02-00-001G
00090-02-00-001H
00090-02-00-001I
00090-02-00-001J
00090-02-00-002
00090-02-00-002B
00090-02-003
00090-02-0009D

PHASE I THE SIGNATURE

00090-04-00-000CA

00090-04-00-001 thru 0090-04-00-0094

PHASE K THE HOLLIES

00090-05-00-000CA
00090-05-00-001 thru 00090-05-00-111

PHASE B NEW QUARTER

00090-06-00-000B1
00090-06-00-00B2
00090-06-00-000CA1
00090-06-000PS1
00090-06-00-001 thru 00090-06-00-005
00090-06-00-005A
00090-06-00-006 thru 00090-06-00-072

PHASE O HERON POINTE

00090-07-00-001 thru 00090-07-00-063

PHASE F PLANTATION POINTE

00090-09-00-000F1
00090-09-00-000F2
00090-09-00-0019
00090-09-00-020

THE COLONY (MARINA)

083A1-11-00-000F
083A1-11-00-000M
083A1-11-00-000T
083A1-11-00-000ZZ
083A1-11-00-001 thru 083A1-11-118

KINGS BAY

083A1-12-00-000F1
083A1-12-00-000RW
083A1-12-00-119 thru 083A1-12-00-188

INSTRUMENT #050001114
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MARCH 22, 2005 AT 12:55PM
TRACI L. JOHNSON, CLERK

RECORDED BY: SBS

*This Instrument Prepared
By and Return to:
Pender & Coward, P.C. (DJG)
222 Central Park Avenue
Virginia Beach, Virginia 23462*

**AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BAY CREEK AT CAPE CHARLES**

THIS AMENDMENT (the "Amendment") TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, made this 30th day of November, 2004, by **BAY CREEK, L.L.C.**, a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of **BAYMARK CONSTRUCTION CORPORATION**, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia, to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES";

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument;

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, Article XX, Section 20.1 of the Declaration provides, in part, that the Declarant, so long as it owns property described in Exhibits A or B of the Declaration for development, may unilaterally amend the Declaration for any purpose, provided the amendment has no material adverse effect upon the rights of more than 2% of the Owners, as defined in the Declaration; that, as of the date hereof, Owners other than the Successor Declarant constitute less than 2% of the Owners or this Amendment has no material adverse

Parcel Numbers: 00090-02-00-000H See Attached Exhibit A for additional numbers.

effect upon more than 2% of the Owners, to-wit: this Amendment shall provide for the election of Voting Members within a Neighborhood in a manner consistent with the election of Directors to the Association's Board.

NOW THEREFORE, pursuant to said Article XX, Section 20.1 of the Declaration and pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, the Successor Declarant does hereby amend the Declaration as follows:

1. The first sentence of the second (2nd) paragraph of Article VI, Section 6.4, is hereby stricken in its entirety and shall be modified so that same reads as follows:

The first election of a Voting Member and alternate Voting Member from each Neighborhood shall occur within thirty (30) days after twenty-five percent (25%) of the total number of Units in the Neighborhood have certificates of occupancy issued thereon and have been conveyed to Class "A" Members other than Builders.

Except as modified by this Amendment, all of the conditions, terms and provisions of the Declaration, and the Exhibits thereto, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA

CITY OF VIRGINIA BEACH, to-wit

I the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 30 day of NOVEMBER, 2004.

Richard S. Foster
Notary Public

My Commission Expires: _____

My Commission Expires 4-30-2008

EXHIBIT A

BAY CREEK

00090-02-00-000H
00090-02-00-001
00090-02-00-001A
00090-02-00-001B
00090-02-00-001B
00090-02-00-001C
00090-02-00-001D
00090-02-00-001F
00090-02-00-001G
00090-02-00-001H
00090-02-00-001I
00090-02-00-001J
00090-02-00-002
00090-02-00-002B
00090-02-003
00090-02-0009D

PHASE I THE SIGNATURE

00090-04-00-000CA

00090-04-00-001 thru 0090-04-00-0094

PHASE K THE HOLLIES

00090-05-00-000CA
00090-05-00-001 thru 00090-05-00-111

PHASE B NEW QUARTER

00090-06-00-000B1
00090-06-00-00B2
00090-06-00-000CA1
00090-06-000PS1
00090-06-00-001 thru 00090-06-00-005
00090-06-00-005A
00090-06-00-006 thru 00090-06-00-072

PHASE O HERON POINTE

00090-07-00-001 thru 00090-07-00-063

PHASE F PLANTATION POINTE

00090-09-00-000F1
00090-09-00-000F2
00090-09-00-0019
00090-09-00-020

THE COLONY (MARINA)

083A1-11-00-000F
083A1-11-00-000M
083A1-11-00-000T
083A1-11-00- 000ZZ
083A1-11-00-001 thru 083A1-11-118

KINGS BAY

083A1-12-00-000F1
083A1-12-00-000RW
083A1-12-00-119 thru 083A1-12-00-188

INSTRUMENT #050001113
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MARCH 22, 2005 AT 12:52PM
TRACI L. JOHNSON, CLERK

RECORDED BY: SBS

DECLARATION OF
LAKE ACCESS EASEMENT AND BULKHEAD MAINTENANCE AGREEMENT
FOR
SECTION II - BAYSIDE VILLAGE
BAY CREEK AT CAPE CHARLES

THIS DECLARATION OF LAKE ACCESS EASEMENT AND BULKHEAD MAINTENANCE AGREEMENT, Made this 22nd day of February, 2000, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes. Also index in the name of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia non-stock, non-profit corporation, (the "Association"), GRANTOR for the purposes of indexing.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES" (the "Subdivision"); and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Successor Declarant is the owner in fee simple of certain real property situate in the Town of Cape Charles, Northampton County, Virginia, now constituting a portion of the Subdivision, and more particularly described as follows:

ALL THOSE CERTAIN lots, pieces or parcels of land, with the building and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia, and being known, numbered and designated as Lots 1 through 19, both inclusive, (the "Lots") as shown on that certain plat entitled "SECTION II - BAYSIDE VILLAGE, BEING A SUBDIVISION OF PARCEL M PHASE 1 (INSTRUMENT #070003284; M.B. 39, PG. 50) AND

Parcel Number: Part of 00099-A-1E

COURSE PARCEL 1D-8C-1 (INSTRUMENT #070003284: M.B. 39, PG. 59), FOR BAY CREEK, L.L.C., TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON, CO., VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia as Instrument Number 080000356, in Plat Book 39, at Pages 82 through 85 (the "Plat").

WHEREAS, portions of the Lots are encumbered by those certain easement areas identified as "15' Lake Easement Hereby Created" on the Plat and further depicted and delineated thereon; within the easement areas a continuous bulkhead has been constructed by the Successor Declarant;

WHEREAS, the Plat also depicts a tract therein described as "Parcel M - Lake 1", within which a lake exists;

WHEREAS, the Successor Declarant wishes to establish and reserve a perpetual right of easement unto itself, its successors and/or assigns, and the Association, to enter upon the easement areas for access to the lake and the bulkhead, in their sole discretion, in order to maintain the cleanliness and water quality of the lake and to maintain and ensure the structural integrity of the bulkhead.

NOW, THEREFORE, for and in consideration of the mutual benefits accruing to (i) the Successor Declarant, (ii) the Association, and (iii) the future owners of the Lots on the Plat, the Successor Declarant does hereby declare, create, reserve and establish a perpetual right of easement over and across the easement areas designated on the Plat as aforesaid, for the purposes set forth above. The easements shall run with the land and inure to the benefit of the Successor Declarant, its successors and/or assigns, and the Association, and shall be binding upon the future owners of the Lots.

No buildings or structures of any kind shall be constructed, erected or permitted within the easement areas without the consent of the Successor Declarant, its successors and/or assigns, and the Association. The Association shall have the right of reasonable access to the bulkhead upon the Lots, within the easement areas, to (i) ensure the integrity and safety of the bulkhead and (ii) to maintain and/or repair or replace the bulkhead, or any portions thereof as required. The Association shall have the power and authority to impose a special assessment upon individual Lot owners for the cost of bulkhead maintenance and/or repair or replacement thereof, as set forth in the Declaration.

CONFIRMATION BY BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.: The Association joins in this instrument to evidence its consent to the establishment of the easements and maintenance responsibilities set forth herein. It is the intent of the Successor Declarant and the Association that the Association will have access over and across the easement areas as required to maintain the said bulkheads in the exercise of its power and authority as set forth in the Declaration.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, and BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia corporation, have caused this instrument to be executed in the respective names of the companies by duly authorized persons.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: *Richard S. Foster*
Richard S. Foster, Manager

BAY CREEK AT CAPE CHARLES COMMUNITY
ASSOCIATION, INC.,
a Virginia corporation

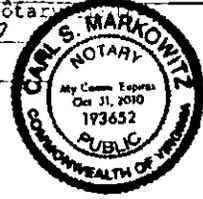
By: *Richard S. Foster*
Richard S. Foster, President

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State
aforesaid, do hereby certify that Richard S. Foster, as Manager of
BAY CREEK, L.L.C., a Virginia limited liability company, whose name
as such is signed to the foregoing writing, has acknowledged the
same before me this 25th day of February, 2008.

Carl S. Markowitz
Notary

My Commission Expires: Oct 31, 2010
Notary Registration Number: 193652

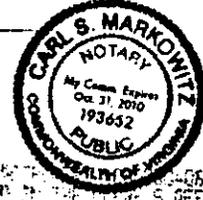


COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State
aforesaid, do hereby certify that Richard S. Foster, as President
of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a
Virginia corporation, whose name as such is signed to the foregoing
writing, has acknowledged the same before me this 25th day of
February, 2008.

Carl S. Markowitz
Notary Public

My Commission Expires: Oct 31, 2010
Notary Registration Number: 193652



NOTARIAL PUBLIC OFFICE OF
CAROLINE COUNTY, VA
FEBRUARY 26, 2008 AT 10:27AM

DECLARATION OF
BEACH ACCESS EASEMENT AND RESTRICTIVE COVENANTS
FOR
PORTION OF PARCEL M
BAY CREEK AT CAPE CHARLES

THIS DECLARATION OF BEACH ACCESS EASEMENT AND RESTRICTIVE COVENANTS, Made this 1st day of February, 2008, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as "Bay Creek" and as "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes. Also index in the name of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia non-stock, non-profit corporation, (the "Association"), GRANTOR for the purposes of indexing.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES" (the "Subdivision"); and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, Bay Creek is the owner in fee simple of certain real property (hereinafter the "Lots") situate in the Town of Cape Charles, Northampton County, Virginia, now constituting a portion of the Subdivision and more particularly described as follows:

Parcel Number: Part of 00090-A-1E

ALL THOSE CERTAIN lots, pieces or parcels of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in the Town of Cape Charles, Capeville District, Northampton County, Virginia, and being known, numbered and designated as Lots 117 through 135, both inclusive, as shown on that certain plat entitled "RESUBDIVISION OF PARCEL M - PHASE 1A AND PARCEL M - PHASE 2A FOR BAY CREEK, L.L.C., TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON, CO., VIRGINIA", DECEMBER 18, 2007", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia as Instrument Number 080000010, in Plat Book 39, at Pages 68 and 69.

WHEREAS, Bay Creek also owns the real property situate between the rear, or westernmost, boundary line of the Lots and the waters of the Chesapeake Bay, a majority of which is comprised of a sandy beach (hereinafter the "Beach"), including natural sand dunes therein (hereinafter the "Dunes") and the grasses and other vegetation naturally growing within the Beach and upon the Dunes;

WHEREAS, the Declarant wishes to (i) create perpetual, exclusive, pedestrian ingress/egress easements for the benefit of the future owner(s) of each of the Lots (the "Owners") over and across a portion of the Beach, and Dunes therein, as herein established and set forth; (ii) provide for the use and maintenance of said easements; and (iii) set forth the rights of Bay Creek and/or the Association to restrict, regulate and govern the use of said easements, as their successors and/or assigns shall determine.

NOW, THEREFORE, for and in consideration of the mutual benefits accruing to (i) Bay Creek, as Successor Declarant and as the owner of the Beach and the Dunes, (ii) the Association, and (iii) the future Owners of the Lots, Bay Creek does hereby declare, create and establish a perpetual, exclusive pedestrian ingress/egress easement use over and across the Beach and the Dunes, for the benefit of each Lot, that shall be fifteen (15) feet in width and, as to each Lot, shall be bounded on the east by the rear, or westernmost, boundary line of each Lot, bounded on the north by the westerly extension of the northern boundary line of each Lot, and bounded on the west by a line that constitutes the western toe of the Dune (i.e. the seaward side line of the Dune behind each respective Lot), as the said toe of the Dune naturally varies from time to time, and bounded on the south by a line that is fifteen (15) feet south of, and parallel to, the said westerly extension of the northern boundary line of each Lot. No Lot Owner shall take any action or permit or suffer any activity within the easement area at any time that disturbs the natural variation of the Dunes in any manner whatsoever. No Lot Owner shall remove any sand from the Beach or disturb the grasses and/or other vegetation growing in the sand or upon the Dunes.

(1) Bay Creek and all future Owners of the Lots shall use the rights granted by this instrument with due regard for the rights of the other Lot Owners and their use thereof. Nothing contained herein shall be construed to entitle the Owner of any Lot to enter upon any portion of any of the other Lots.

(2) No buildings or structures of any kind shall be constructed, erected or permitted within or upon the easement areas except wooden (or other approval construction material) walkways (together with appurtenant structures such as benches or gazebos) solely for access over the Dunes to the Beach, constructed by a Lot Owner, provided that such walkways (and appurtenant structures) shall (i) comply with all applicable Town of Cape Charles ordinance(s) relating to location, construction, design and height thereof, (ii) comply with all requirements of any other governmental agency having jurisdiction thereover, and (iii) be approved by Bay Creek and the Association. All of the costs of obtaining such approvals

shall be borne by the respective Lot Owner seeking to construct a walkway within the easement area appurtenant such Owner's Lot, including, but not limited to, such reasonable fees as Bay Creek and the Association may impose to defray the cost of reviewing the plans and specifications thereof. After construction thereof, Owners of the respective Lots shall maintain the approved walkways and appurtenant structures so approved in a manner satisfactory to the Association, and any governmental agency having authority thereover, and shall be solely responsible for maintaining same and keeping the easement area free from debris and rubbish, to the satisfaction of the Association. Bay Creek and/or the Association unconditionally reserve the right to enter upon the easement areas to maintain the areas at the expense of the respective Lot Owners.

(3) The easements hereby established shall be subject to such other restrictions and limitation(s) thereupon that may be imposed by Bay Creek and/or the Association.

(4) The Association joins in this instrument to evidence its consent to the establishment of the easements contained herein. It is the intent of Bay Creek and the Association that the Association will continue to promulgate and enforce such rules and regulations to governance of the use of the Beach in consultation with Bay Creek as the owner of the Beach, all in the exercise of its power and authority.

Notwithstanding anything in this Declaration to the contrary, each future Owner of a Lot shall be deemed to acknowledge that use of the Beach and rights to traverse the Dunes and thereby enter upon the Beach may be subject to restrictions imposed thereon by the United States of America, the Commonwealth of Virginia, Northampton County and/or the Town of Cape Charles. Furthermore, Bay Creek, L.L.C., by the establishment of this easement, does not relinquish any right of title in and to the Beach and/or the Dunes, including, but not limited to, its riparian rights, rights of accretion, and/or its rights in and to the waters of the Chesapeake Bay, if any. Each such Owner, for said Owner and on behalf of said Owner's heirs, successors, assigns, guests, and invitees, shall be deemed, by such Owner acquiring title to a Lot, to acknowledge hereby that the right to enter upon the Beach, including the area comprised by the Dunes, is a right of usage granted solely by this instrument and that the title to said real property remains the sole and exclusive property of Bay Creek, L.L.C., and/or its successors and assigns.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK

SIGNATURE PAGE FOLLOWS THIS PAGE

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, and BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia corporation, have caused this instrument to be executed in the respective names of the companies by duly authorized persons.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: *Richard S. Foster*
Richard S. Foster, Manager

BAY CREEK AT CAPE CHARLES COMMUNITY
ASSOCIATION, INC.,
a Virginia corporation

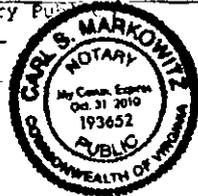
By: *Richard S. Foster*
Richard S. Foster, President

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 1st day of ~~January~~ February, 2008.

Carl S. Markowitz
Notary Public

My Commission Expires: Oct 31, 2010
Notary Registration Number: 193652

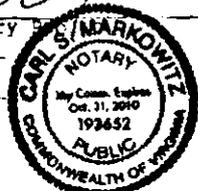


COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as President of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia corporation, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 1st day of ~~January~~ February, 2008.

Carl S. Markowitz
Notary Public

My Commission Expires: Oct 31 2010
Notary Registration Number: 193652



ASSIGNMENT OF DECLARANT'S RIGHTS

THIS ASSIGNMENT OF DECLARANT'S RIGHTS, Made this 28th day of February, 2008, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; and BAY CREEK SOUTH, LLC, a Virginia limited liability company (hereinafter referred to as the "Second Successor Declarant"), GRANTEE, 1100 Eaglewood Drive, Suite C, Virginia Beach, Virginia 23454. Also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions for Bay Creek at Cape Charles dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions. Said Declaration granted to Baymark all of the rights, duties, and privileges of the "Declarant", as such term is defined in the Declaration; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of the Declarant may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Successor Declarant now desires that all of the rights, powers, and privileges of the Declarant under the Declaration be assigned to the Second Successor Declarant and that the said Second Successor Declarant shall be the sole Declarant of Bay Creek at Cape Charles;

NOW THEREFORE, in accordance with the provisions of the Declaration, the Successor Declarant does hereby assign and transfer any and all rights, privileges, responsibilities, powers, and obligations of the Successor Declarant to the Second Successor Declarant, and the Second Successor Declarant does hereby accept such rights, privileges, responsibilities, powers, and obligations of Successor Declarant, as evidenced by its recordation of this instrument. From and after the date hereof, and until such time as such rights may be assigned or otherwise terminate in accordance with the Declaration, the Second Successor Declarant shall be the sole Declarant for Bay Creek at Cape Charles as aforesaid.

Parcel Number: Includes 00090-A-1E

PREPARATION BY:
RETURN TO:

*Consolo, Markowitz
& Webb, PLLC*

LYNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, the Successor Declarant herein, has caused this instrument to be executed in its name by its duly authorized Manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 28th day of February, 2008.

[Signature]
Notary Public

My Commission Expires: Oct 31, 2010

Notary Registration Number: 193652



INSTRUMENT #080000472
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MARCH 4, 2008 AT 01:32PM
TRACI L. JOHNSON, CLERK
RECORDED BY: AFS

PREPARATION BY:
RETURN TO:
**Consolvo, Markowitz
& Webb, PLLC**
LYNNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

001473

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 1st day of August, 2000, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, a portion of the real property described in Exhibit A appended to the Declaration has been subdivided by the Successor Declarant into residential building lots that are "Units" as defined in Article II of the Declaration and are within the scope of the Declaration, said Units being more particularly described as LOTS 1 through 111, both inclusive, as shown on that certain plat entitled "PLAT OF BAY CREEK AT CAPE CHARLES, PHASE K, BEING A SUBDIVISION OF PARCEL K, BAY CREEK - PHASE TWO, M.B. 27, P. 26, REF. D.B. 177, P. 431, D.B. 311, P. 516, D.B. 317, P. 378, M.B. 26, P. 49, TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the aforesaid Clerk's Office in Map Book 28, at Pages 64 through 73 (hereinafter the "Phase K Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant, as the owner in fee simple of the Phase K Units, does hereby supplement the Declaration to declare that the Phase K Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

Parcel No(s): Part of 00090 (6A) 00-001A
Preparation by Consolvo, Markowitz & Webb, FLC

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from ninety-four (94) to two hundred five (205) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

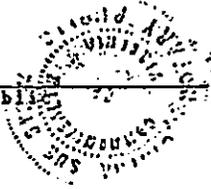
BAY CREEK, L.L.C.
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 1st day of August, 2000.

My Commission Expires: June 30, 2003
Ann Marie Dunne
Notary Public



INSTRUMENT #000001473
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
AUGUST 4, 2000 AT 01:49PM
KENNETH E. ARNOLD, CLERK
BY: Traci H. G... (DC)

001472

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 1st day of August, 2000, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, a portion of the real property described in Exhibit A appended to the Declaration has been subdivided by the Successor Declarant into residential building lots that are "Units" as defined in Article II of the Declaration and are within the scope of the Declaration, said Units being more particularly described as LOTS 1 through 94, both inclusive, as shown on that certain plat entitled "PLAT OF BAY CREEK AT CAPE CHARLES, PHASE I, BEING A SUBDIVISION OF PARCEL I, BAY CREEK - PHASE ONE, M.B. 26, P. 62 - M.B. 27, P. 26, REF. D.B. 177, P. 431, D.B. 311, P. 516, D.B. 317, P. 378, M.B. 26, P. 49, TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the aforesaid Clerk's Office in Map Book 28, at Pages 49 through 63 (hereinafter the "Phase I Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant, as the owner in fee simple of the Phase I Units, does hereby supplement the Declaration to declare that the Phase I Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

Parcel No(s): 00090(02)00-0001
Preparation by Consolvo, Markowitz & Webb, PLC

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from zero (0) to ninety-four (94) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

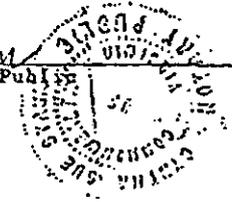
IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 15th day of August, 2000.

My Commission Expires: June 30, 2003
Cynthia Lee Bunn
Notary Public


INSTRUMENT #000001472
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
AUGUST 4, 2000 AT 01:47PM
KENNETH F. ARNOLD, CLERK

BY: [Signature] (DC)

000450

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 5th day of March, 2001, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, a portion of the real property described in Exhibit(s) A and/or B appended to the Declaration has been subdivided by the Successor Declarant into residential building lots that are "Units" as defined in Article II of the Declaration and are within the scope of the Declaration or may be brought within the scope of the Declaration, said Units being more particularly described as LOTS 1 through 72, both inclusive, as shown on that certain plat entitled "PLAT OF BAY CREEK AT CAPE CHARLES, PHASE B, BEING A SUBDIVISION OF PARCEL B, BAY CREEK - PHASE THREE, M.B. 29, P. 1, REF. D.B. 177, P. 431, D.B. 311, P. 516, D.B. 317, P. 378, TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the aforesaid Clerk's Office in Map Book 29, at Pages 29 through 38 (hereinafter the "Phase B Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant, as the owner in fee simple of the Phase B Units, does hereby supplement the Declaration to declare that the Phase B Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

Parcel No(s) .: 00090 (A) LG

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from two hundred five (205) to two hundred seventy-seven (277) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, Successor Declarant, has caused this instrument to be executed in its name by its manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 6th day of March, 2001

[Signature]
Notary Public

My Commission Expires: Oct 31, 2002

INSTRUMENT #010000450
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MARCH 7, 2001 AT 11:48AM
KENNETH F. ARNOLD, CLERK

BY: Kenneth F. Arnold (BC)

020 002520

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 25th day of September, 2002, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes; also index in the name of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company (hereinafter "Bay Creek Marina"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 3, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March

15, 2001 and recorded in Deed Book 330, at Page 271; and [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 5, 2001 and recorded in Deed Book 337, at Page 519; and

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by Bay Creek Marina into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as LOTS 1 through 118, both inclusive, as shown on that certain plat entitled "SUBDIVISION PLAT OF PARCEL 'A-1' PLAT BOOK 30 PAGES 36-37, BAY CREEK - PHASE IV, THE COLONY AT BAY CREEK FOR BAY CREEK MARINA AND RESORT, LLC, TOWN OF CAPE CHARLES, VIRGINIA", duly recorded in the Clerk's Office in Plat Book 30, at Pages 81 through 90 (hereinafter "The Colony Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that The Colony Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

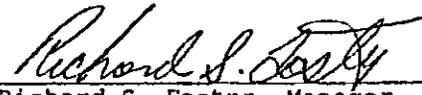
ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from two hundred seventy-seven (277) to three hundred ninety-five (395) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

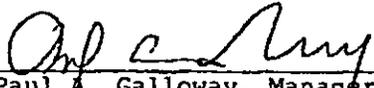
CONFIRMATION BY BAY CREEK MARINA AND RESORT, LLC: Bay Creek Marina joins in the execution of this instrument to evidence its consent to the lots described on the aforesaid plat being deemed to be "Units" as described in the Declaration and, hereafter, being subject to the Declaration in all respects.

IN WITNESS WHEREOF, BAY CREEK, L.L.C. and BAY CREEK MARINA AND RESORT, LLC, both Virginia limited liability companies, have caused this instrument to be executed in the names of the companies by duly authorized managers.

BAY CREEK, L.L.C.,
a Virginia limited liability company

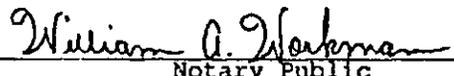
By: 
Richard S. Foster, Manager

BAY CREEK MARINA AND RESORT, LLC,
a Virginia limited liability company

By: 
Paul A. Galloway, Manager

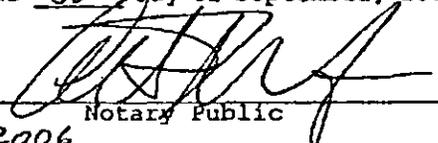
COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 25th day of September, 2002.

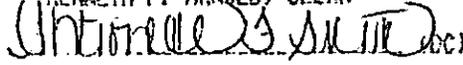

Notary Public
My Commission Expires: January 31, 2003

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Paul A. Galloway, as Manager of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 30th day of September, 2002.


Notary Public
My Commission Expires: Oct 31, 2006

INSTRUMENT #020002520
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
OCTOBER 15, 2002 AT 12:18PM
KENNETH F. ARNOLD, CLERK

31. 

030001622

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 19th day of May, 2003, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes; also index in the name of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company (hereinafter "Bay Creek Marina"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March

PREPARATION BY:
RETURN TO:

*nsolo, Markowitz
& Webb, P.C.*

AVENUE CORPORATE CENTER II - SUITE 501
780 LYNNHURST PARKWAY
GROVE BEACH, VIRGINIA 23452-7325

Parcel Number: Portion of 083A1-((0A))-00-00A

15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 5, 2001 and recorded in Deed Book 337, at Page 519; and [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; and

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by Bay Creek Marina into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as LOTS 119 through 188, both inclusive, as shown on that certain plat entitled "SUBDIVISION PLAT OF PARCEL 'F' KINGS BAY, BAY CREEK - PHASE IV FOR BAY CREEK MARINA & RESORT, LLC, 'SUBDIVISION PLAT OF PARCEL A-1 (PLAT BOOK 30, PAGES 81-90)', TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the Clerk's Office in Plat Book 31, at Pages 49 through 52 (hereinafter "the Kings Bay Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the Kings Bay Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from three hundred ninety-five (395) to four hundred sixty-five (465) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

CONFIRMATION BY BAY CREEK MARINA AND RESORT, LLC: Bay Creek Marina joins in the execution of this instrument to evidence its consent to the lots described on the aforesaid plat being deemed to be "Units" as described in the Declaration and, hereafter, being subject to the Declaration in all respects.

IN WITNESS WHEREOF, BAY CREEK, L.L.C. and BAY CREEK MARINA AND RESORT, LLC, both Virginia limited liability companies, have caused this instrument to be executed in the names of the companies by duly authorized managers.

PREPARATION BY:
RETURN TO:

*Consolio, Markowitz
& Webb, PLLC*

MANAGER CORPORATE CENTER II - SUITE 101
780 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: 
Richard S. Foster, Manager

BAY CREEK MARINA AND RESORT, LLC,
a Virginia limited liability company

By: *Paul A. Galloway*
Paul A. Galloway, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 28th day of May, 2003.

William A. Workman
Notary Public

My Commission Expires: January 31, 2007

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Paul A. Galloway, as Manager of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 27th day of May, 2003.

Paul A. Galloway
Notary Public

My Commission Expires: Oct 31, 2006

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, P.C.*
YORKMARK CORPORATE CENTER II - SUITE 101
780 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

INSTRUMENT #030001622
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MAY 30, 2003 AT 12:23PM
KENNETH F. ARNOLD, CLERK

BY: *Monette J. Smith* (DC)

030001623

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 19th day of May, 2003, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes; also index in the name of HERON POINTE, L.L.C., a Virginia limited liability company (hereinafter "Heron Pointe"), GRANTOR for indexing purposes; also index in the names of GAGE FINANCIAL II, LLC, a Utah limited liability company (hereinafter "Gage") and DEFORD LIMITED, a Virginia corporation (hereinafter "DeFord"), GRANTORS for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in

Parcel Number(s):

PREPARATION BY:
RETURN TO:

*Consolo, Markowitz
& Webb, PLLC*

SHAWANEE CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; and [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded in the Clerk's Office.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by Heron Pointe into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as LOTS 1 through 63, both inclusive, as shown on that certain plat entitled "SUBDIVISION OF 'HERON POINTE PARCEL' (PLAT BOOK 31 PAGE 5) AND 'PALMER COURSE PARCEL 1D-8D' (PLAT BOOK 31 PAGE 5) (PLAT BOOK 26 PAGE 62) FOR HERON POINTE, L.L.C., TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA", (the "Plat"), duly recorded in the Clerk's Office in Plat Book 31, at Pages 53 through 58, hereinafter "the Heron Pointe Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the Heron Pointe Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from four hundred sixty-five (465) to five hundred twenty-eight (528) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect and shall pertain to the Heron Pointe Units.

CONFIRMATION BY HERON POINTE, L.L.C.: Heron Pointe joins in the execution of this instrument to evidence its consent to the lots described on the Plat being deemed to be "Units" as described in the Declaration and, hereafter, being subject to the Declaration in all respects.

CONFIRMATION BY GAGE FINANCIAL II, LLC AND DEFORD LIMITED: Gage and DeFord join in the execution of this instrument to evidence their consent to the lots described on the Plat as Lot 49 and Lot 29, respectively, being deemed to be "Units" as described in the Declaration and, hereafter, being subject to the Declaration in all respects. Said Lot 49 and Lot 29 were heretofore also depicted on that certain plat entitled "RESUBDIVISION OF 'PARCEL O' (PLAT BOOK 26 PAGE 62) AND 'COURSE PARCEL 1D-8D' (PLAT BOOK 26 PAGE 62) FOR HERON POINTE, L.L.C., TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA", and recorded in the Clerk's Office as Document Number 020002704 in Plat Book 31, at page 5 through 7.

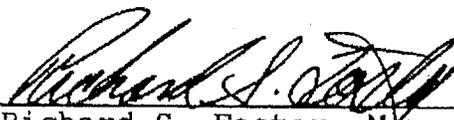
PREPARATION BY:
RETURN TO:

*Consolvo, Markowitz
& Webb, P.C.*

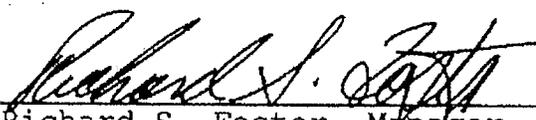
JYNEHAVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

IN WITNESS WHEREOF, BAY CREEK, L.L.C. and HERON POINTE, L.L.C., both Virginia limited liability companies, and GAGE FINANCIAL II, LLC, a Utah limited liability company, have each caused this instrument to be executed in the names of the companies by duly authorized managers. IN FURTHER WITNESS WHEREOF, DEFORD LIMITED, a Virginia corporation, has caused this instrument to be executed in its name by its duly authorized officer.

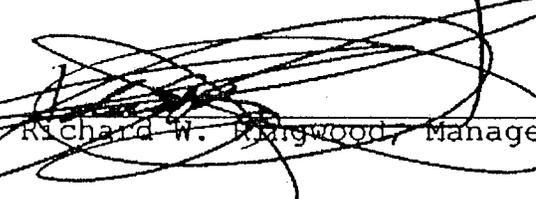
BAY CREEK, L.L.C.,
a Virginia limited liability company

By: 
Richard S. Foster, Manager

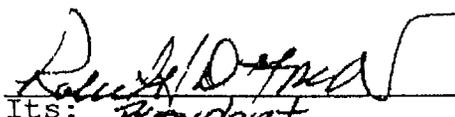
HERON POINTE, L.L.C.,
a Virginia limited liability company

By: 
Richard S. Foster, Manager

GAGE FINANCIAL II, LLC,
a Utah limited liability company

By: 
Richard W. Dargwood, Manager

DEFORD LIMITED,
a Virginia corporation

By: 
Its: President

PREPARATION BY
RETURN TO:

Consolo, Markowitz
& Webb, P.C.

YIMSAVEN CORPORATE CENTER II - SUITE 101
700 LINDSEY PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 28th day of May, 2003.

William A. Workman

Notary Public

My Commission Expires: January 31, 2007

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of HERON POINTE, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 28th day of May, 2003.

William A. Workman

Notary Public

My Commission Expires: January 31, 2007

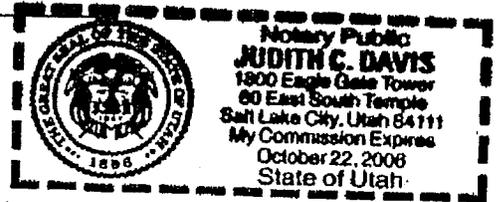
STATE OF UTAH
CITY\COUNTY OF SALT LAKE, to-wit:

I, the undersigned, a Notary Public in and for the City\County and State aforesaid, do hereby certify that Richard W. Ringwood, as Manager of GAGE FINANCIAL II, LLC, a Utah limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 21st day of May, 2003.

Judith C. Davis

Notary Public

My Commission Expires: _____



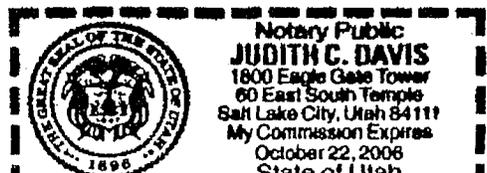
STATE OF UTAH
CITY\COUNTY OF SALT LAKE, to-wit:

I, the undersigned, a Notary Public in and for the City\County and State aforesaid, do hereby certify that Robert H. Deford as the President of DEFORD LIMITED, a Virginia corporation, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 21st day of May, 2003.

Judith C. Davis

Notary Public

My Commission Expires: _____



PREPARATION BY:
RETURN TO:

nsolvo, Markowitz
& Webb, PLLC

WHEAT CORPORATE CENTER II - SUITE 101
780 LYNNBURN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

INSTRUMENT #030001623
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MAY 30, 2003 AT 12:27PM
KENNETH F. ARNOLD, CLERK
BY: ANTHONY J. SMITH (DC)

040001918

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES Adds Lots 1-38
Plantation Pointe

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 14th day of June, 2004, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes; also index in the name of RICHARD S. FOSTER (hereinafter "Foster"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and

PREPARATION BY:
RETURN TO:

*Consolo, Markowitz
& Webb, PLLC*

LYNNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

Parcel Number: Part of 00090-(OA)-00-000F

recorded on May 30, 2003 as Instrument Number 030001622; and [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001623; and

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by Successor Declarant into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as LOTS 1 through 38, both inclusive, as shown on that certain plat entitled "SUBDIVISION OF PLANTATION POINTE OF BAY CREEK AT CAPE CHARLES - SECTION ONE, PARCEL F-2 AND LOTS 19 & 20, PHASE TWO (PLAT BOOK 31, PAGES 96-97) (PLAT BOOK 27, PAGE 26) FOR BAY CREEK, L.L.C., TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 32, at Pages 78, 79 and 80.

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the Plantation Pointe-Section One Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from five hundred twenty-eight (528) to five hundred sixty-six (566) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect and shall pertain to the Plantation Pointe-Section One Units.

CONFIRMATION BY FOSTER: Foster joins in the execution of this instrument to evidence his consent to the lots described on the Plat as Lot 19 and Lot 20 being deemed to be "Units" as described in the Declaration and, hereafter, being subject to the Declaration in all respects. Said Lot 19 and Lot 20 were heretofore also depicted on that certain plat entitled "SUBDIVISION OF PARCEL 'F' BAY CREEK AT CAPE CHARLES, PHASE TWO (PLAT BOOK 27, PAGE 26) FOR BAY CREEK, L.L.C., TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 31, at Pages 96 and 97.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized manager. Also WITNESS the following signature and seal.

PREPARATION BY:
RETURN TO:

*Consolo, Markowitz
& Webb, PLLC*

LYNNHURST CORPORATE CENTER II - SUITE 101
780 LYNNHURST PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

Richard S. Foster (SEAL)
Richard S. Foster

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 15th day of June, 2004.

Cynthia Sue Benum
Notary Public

My Commission Expires: June 30, 2007

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 15th day of June, 2004.

Cynthia Sue Benum
Notary Public

My Commission Expires: June 30, 2007

INSTRUMENT 4040001918
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
JUNE 18, 2004 AT 02:14PM
TRACI L. JOHNSON, CLERK

BY: Traci L. Johnson

040001918

PREPARATION BY:
RETURN TO:

Consolo, Markowitz
& Webb, PLLC

LYNNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

4' : Lots 64A, 64-117

to 316/656

Marina Village East

Adds Lots 64A, 64-117

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR

BAY CREEK AT CAPE CHARLES

050000246

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 20th day of January, 2005, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes; also index in the name of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company (hereinafter "Bay Creek Marina"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated

Parcel Numbers: Portions of 083A1-A-A2 & 083A1-A-A1

PREPARATION BY:
RETURN TO:

*Consolo, Markowitz
& Webb, P.C.*

LYNHAMEN CORPORATE CENTER II - SUITE 101
760 LYNHAMEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001623; and [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded on June 18, 2004 as Instrument Number 040001918.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by Bay Creek Marina into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as Lot 64A and Lots 64 through 117, both inclusive, as shown on that certain plat entitled "SUBDIVISION OF 'MARINA VILLAGE EAST' PHASE I, RESUBDIVISION OF PARCEL A-1 PARCEL A-2 LOTS 17 - WESTERN 1/2 LOT 23 AND LOTS 44A - 49A, P.B. 33 PGS. 67-68, FOR BAY CREEK MARINA AND RESORT, LLC, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", which said plat is duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 33, at pages 78 et seq. (hereinafter the "Marina Village East Phase I Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the Marina Village East Phase I Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from five hundred sixty-six (566) to six hundred twenty-one (621) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

CONFIRMATION BY BAY CREEK MARINA AND RESORT, LLC: Bay Creek Marina joins in the execution of this instrument to evidence its consent to the lots described on the aforesaid plat being deemed to be "Units" as described in the Declaration and, hereafter, being subject to the Declaration in all respects.

PREPARATION BY:
RETURN TO:

Consolo, Markowitz
& Webb, PLLC

LYNNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

64A

64-117 Marina Village East

33/78

05-246

IN WITNESS WHEREOF, BAY CREEK, L.L.C. and BAY CREEK MARINA AND RESORT, LLC, both Virginia limited liability companies, have caused this instrument to be executed in the names of the companies by duly authorized managers.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

BAY CREEK MARINA AND RESORT, LLC,
a Virginia limited liability company

By: Paul A. Galloway
Paul A. Galloway, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 20th day of January, 2005.

[Signature]
Notary Public

My Commission Expires: Oct 31, 2006

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Paul A. Galloway, as Manager of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 20th day of January, 2005.

[Signature]
Notary Public

My Commission Expires: Oct 31, 2006

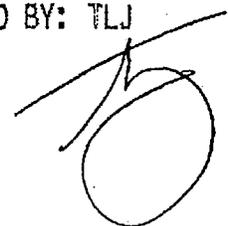
PREPARATION BY:
RETURN TO:

Consolvo, Markowitz
& Webb, PLLC

LYNNEHEN CORPORATE CENTER II - SUITE 101
750 LYNNEHEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

INSTRUMENT #050000246
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
JANUARY 24, 2005 AT 02:22PM
TRACI L. JOHNSON, CLERK

RECORDED BY: TLJ

A handwritten signature in black ink, appearing to be 'TLJ', written over the printed name 'TRACI L. JOHNSON, CLERK'.

050002309

SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 24th day of February, 2005, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; [8] Supplement to Declaration of

Parcel Number(s): Part of 90-2-4

PREPARATION BY:
RETURN TO:
Consolo, Markowitz
& Webb, PLLC

LYNNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNHURST PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

72 units - Establishes property to become FAIRWAYS I CONDOMINIUM

Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded on June 18, 2004 as Instrument Number 040001918; and [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded on January 24, 2005 as Instrument Number 050000246.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, owned by the Successor Declarant, is now more particularly described as "SECTION 1-A 296,889.3 SQ.FT. 6.816 ACRES", "PART OF SECTION 1-B188,740.2 SQ.FT. 4.333 ACRES", "PART OF SECTION 1-B 49,952.8 SQ.FT. 1.147 ACRES", "SECTION 2 347,371.2 SQ.FT. 7.975 ACRES" and "SECTION 3 395,525.3 SQ.FT. 9.080 ACRES", on that certain plat entitled "REVISED PLAT OF VILLAGE H BEING A RESUBDIVISION OF 'COURSE PARCEL '2B-4B' AND 'PARCEL H' OF BAY CREEK AT CAPE CHARLES PHASE TWO FOR BAY CREEK LLC (FORMERLY BAYMARK CONSTRUCTION CORPORATION) (DEED REFERENCE: D.B.317, P.378) (MAP BOOK REFERENCES: M.B.26, P.62 AND M.B.27 P.26) TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT NORTHAMPTON COUNTY, VIRGINIA" prepared by LandTech Resources, Inc., recorded in the Clerk's Office of the Circuit Court of Northampton County in Plat Book 33 at pages 92, as Instrument Number 050000916; and

WHEREAS, Successor Declarant is developing a portion of Village H into a residential condominium community within Bay Creek at Cape Charles known as FAIRWAYS I CONDOMINIUM (hereinafter the "Condominium") to be comprised of approximately seventy-two (72) condominium units (hereinafter the "Condominium Units"), reference being made to that certain Declaration of Condominium of Fairways I Condominium to be recorded in the Clerk's Office simultaneously herewith; and

72

WHEREAS, the Successor Declarant intends to confirm that [i] all of the Condominium Units in the Condominium, as each respective phase of the Condominium is established by recordation of appropriate condominium instruments in the Clerk's Office, shall be subject to the Declaration and be part of the Bay Creek at Cape Charles community, [ii] that the Condominium Units are deemed to be "Units" as defined in the Declaration, [iii] that all of the owners of the Condominium Units shall be members of the Association, and [iv] that the Declaration shall be fully and completely applicable to the Condominium Units in all respects;

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant, in accordance with the Declaration, the Successor Declarant does hereby supplement the Declaration to declare and confirm that the Condominium Units created, or to be created, by recordation of appropriate condominium instruments in the Clerk's Office by the Successor Declarant, and/or its successors and assigns, are deemed to be "Units" as defined in the Declaration, that the Declaration shall be fully and completely applicable to the Condominium Units in all respects, and that the owners of the Condominium Units are Class "A" Members of the Bay Creek at Cape Charles Community, as defined the Declaration, thereby entitled to vote in Bay Creek at Cape Charles Community Association, Inc.

ALLOCATION OF VOTES: Upon the date of recordation in the Clerk's Office of condominium instruments creating Condominium Units, the total number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) shall be increased by the number of Condominium Units thereby created and the corresponding number of Class "A" Members, as defined in the Declaration, entitled to vote in Bay Creek at Cape Charles Community Association, Inc., shall correspond to the total number of Units, whether created and established by the Successor Declarant, by recordation of further

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, P.C.*

LYNNHVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

amendments and/or supplements to the Declaration, or created by Successor Declarant, and/or its successors and assigns, as Condominium Units, by recordation of further condominium instruments, all as more fully set forth in said Declaration and herein.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 1st day of March, 2005.

Cynthia Sue Benim
Notary Public

My Commission Expires: June 30, 2007

INSTRUMENT #050002309
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
JUNE 17, 2005 AT 10:58AM
TRACI L. JOHNSON, CLERK

RECORDED BY: SBS

PREPARATION BY:
RETURN TO:
*Consolo, Markowitz
& Webb, PLLC*
LYNNHURST CORPORATE CENTER II - SUITE 101
760 LYNNHURST PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

050001734

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 3rd day of May, 2005, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes; also index in the name of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company (hereinafter "Bay Creek Marina"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property; described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated

Parcel Numbers: Portions of 083A1-A-A2 & 083A1-A-A1

PREPARATION BY:
RETURN TO:

onsolvo, Markowitz
& Webb, PLLC

LYNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

18-63 Village East

September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded on June 18, 2004 as Instrument Number 040001918; and [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded as Instrument Number 050000247.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by Bay Creek Marina into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as Lots 18 through 63, both inclusive, as shown on that certain plat entitled "SUBDIVISION OF 'MARINA VILLAGE EAST' PHASE III, RESUBDIVISION OF PARCEL A-1 PARCEL A-2 LOTS 17 - WESTERN 1/2 LOT 23 AND LOTS 44A - 49A, P.B. 33 PGS. 67-68, FOR BAY CREEK MARINA AND RESORT, LLC, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", which said plat is duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 34, at pages 22, et seq. (hereinafter the "Marina Village East Phase III Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the Marina Village East Phase III Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from six hundred twenty-one (621) to six hundred sixty-seven (667) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

CONFIRMATION BY BAY CREEK MARINA AND RESORT, LLC: Bay Creek Marina joins in the execution of this instrument to evidence its consent to the lots described on the aforesaid plat being deemed to be "Units" as described in the Declaration and, hereafter, being subject to the Declaration in all respects.

PREPARATION BY:
RETURN TO:

*Consolvo, Markowitz
& Webb, PLLC*

LYNNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

IN WITNESS WHEREOF, BAY CREEK, L.L.C. and BAY CREEK MARINA AND RESORT, LLC, both Virginia limited liability companies, have caused this instrument to be executed in the names of the companies by duly authorized managers.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

BAY CREEK MARINA AND RESORT, LLC,
a Virginia limited liability company

By: Paul A. Galloway
Paul A. Galloway, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 5th day of May, 2005.

My Commission Expires: Oct 31, 2006

[Signature]
Notary Public

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Paul A. Galloway, as Manager of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 5th day of May, 2005.

My Commission Expires: Oct 31, 2006

[Signature]
INSTRUMENT #050001734
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MAY 9, 2005 AT 03:55PM
TRACI L. JOHNSON, CLERK

RECORDED BY: AFS

PREPARATION BY:
RETURN TO:
*lvo, Markowitz
Webb, PLLC*

CORPORATE CENTER II - SUITE 101
30 LYNNHAVEN PARKWAY
BEACH, VIRGINIA 23452-7325

050001960

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 20th day of May, 2005, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes; also index in the name of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company (hereinafter "Bay Creek Marina"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated

PREPARATION BY:
RETURN TO:

*Solov, Markowitz
& Webb, PLLC*

NEW CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
JINJA BEACH, VIRGINIA 23452-7325

Parcel Numbers: Portions of 083A1-A-A2 & 083A1-A-A1

*Marina Village East Lots 1-14, 14A, 15, 15A, 16, 17
Increases units from 667 to 686*

September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded on June 18, 2004 as Instrument Number 040001918; [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded as Instrument Number 050000247; and [12] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 3, 2005 and recorded as Instrument Number 050001734.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by Bay Creek Marina into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as Lots 1 through 14, both inclusive, and Lots 14A, 15, 15A, 16 and 17, as shown on that certain plat entitled "SUBDIVISION OF 'MARINA VILLAGE EAST' PHASE II, RESUBDIVISION OF PARCEL A-1 PARCEL A-2 LOTS 17 - WESTERN 1/2 LOT 23 AND LOTS 44A - 49A, P.B. 33 PGS. 67-68, FOR BAY CREEK MARINA AND RESORT, LLC, TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", which said plat is duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 34, at pages 31, et seq. (hereinafter the "Marina Village East Phase II Units");

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the Marina Village East Phase II Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

ALLOCATION OF VOTES: Recordation of this instrument shall increase the number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) from six hundred sixty-seven (667) to six hundred eighty-six (686) and the corresponding number of Class "A" Members, as defined in Article VI, Section 6.3(a), entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" as defined in the Declaration) shall correspond to the total number of Units aforesaid, all as more fully set forth in said Declaration.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

CONFIRMATION BY BAY CREEK MARINA AND RESORT, LLC: Bay Creek Marina joins in the execution of this instrument to evidence its consent to the lots described on the aforesaid plat being deemed to be "Units" as described in the Declaration and, hereafter, being subject to the Declaration in all respects.

PREPARATION BY:
RETURN TO:

*Consolo, Markowitz
& Webb, PLLC*

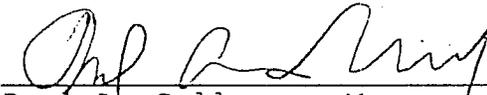
LYNNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

IN WITNESS WHEREOF, BAY CREEK, L.L.C. and BAY CREEK MARINA AND RESORT, LLC, both Virginia limited liability companies, have caused this instrument to be executed in the names of the companies by duly authorized managers.

BAY CREEK, L.L.C.,
a Virginia limited liability company

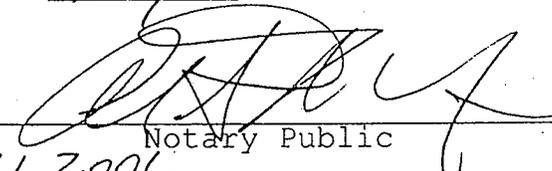
By: 
Richard S. Foster, Manager

BAY CREEK MARINA AND RESORT, LLC,
a Virginia limited liability company

By: 
Paul A. Galloway, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 20th day of May, 2005.


Notary Public
My Commission Expires: Oct 31, 2006

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Paul A. Galloway, as Manager of BAY CREEK MARINA AND RESORT, LLC, a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 23rd day of May, 2005.


Notary Public
My Commission Expires: Oct 31, 2006

PREPARATION BY:
RETURN TO:
Consolvo, Markowitz
& Webb, PLLC

LYNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

INSTRUMENT #050001960
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MAY 24, 2005 AT 11:36AM
TRACI L. JOHNSON, CLERK

RECORDED BY: SBS

SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 29th day of December, 2005, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated

Parcel Number(s): Part of 90-2-H

PREPARATION BY: RETURN TO: Consolvo, Markowitz & Webb, P.L.C. LINDSEY CORPORATE CENTER II - SUITE 101 760 LINDSEY PARKWAY VIRGINIA BEACH, VIRGINIA 23452-7325

Add Fairways II

September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded on October 15, 2002 as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded on May 30, 2003 as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded on June 18, 2004 as Instrument Number 040001918; [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded on January 24, 2005 as Instrument Number 050000247; [12] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 3, 2005 and recorded as Instrument Number 050001734; [13] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 20, 2005 and recorded as Instrument Number 050001960; and [14] Supplement to Declaration of Covenants, Conditions and Restrictions dated February 24, 2005 and recorded as Instrument Number 050002309.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, owned by the Successor Declarant, is described as "SECTION 1-A 296,889.3 SQ.FT. 6.816 ACRES", "PART OF SECTION 1-B188,740.2 SQ.FT. 4.333 ACRES", "PART OF SECTION 1-B 49,952.8 SQ.FT. 1.147 ACRES", "SECTION 2 347,371.2 SQ.FT. 7.975 ACRES" and "SECTION 3 395,525.3 SQ.FT. 9.080 ACRES", on that certain plat entitled "REVISED PLAT OF VILLAGE H BEING A RESUBDIVISION OF 'COURSE PARCEL 2B-4B' AND 'PARCEL H' OF BAY CREEK AT CAPE CHARLES PHASE TWO FOR BAY CREEK LLC (FORMERLY BAYMARK CONSTRUCTION CORPORATION) (DEED REFERENCE: D.B.317, P.378) (MAP BOOK REFERENCES: M.B.26, P.62 AND M.B.27 P.26) TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT NORTHAMPTON COUNTY, VIRGINIA" prepared by LandTech Resources, Inc., recorded in the Clerk's Office of the Circuit Court of Northampton County in Plat Book 33, at page 92, as Instrument Number 050000916; and

WHEREAS, Successor Declarant is developing a portion of Village H into a residential condominium community within Bay Creek at Cape Charles known as FAIRWAYS II CONDOMINIUM (hereinafter the "Condominium") to be comprised of approximately seventy-eight (78) condominium units (hereinafter the "Condominium Units"), reference being made to that certain Declaration of Condominium of Fairways II Condominium dated December 29, 2005 and to be recorded in the Clerk's Office simultaneously herewith; and

WHEREAS, the Successor Declarant intends to confirm that [i] all of the Condominium Units in the Condominium, as each respective phase of the Condominium is established by recordation of appropriate condominium instruments in the Clerk's Office, shall be subject to the Declaration and be part of the Bay Creek at Cape Charles community, [ii] that the Condominium Units are deemed to be "Units" as defined in the Declaration, [iii] that all of the owners of the Condominium Units shall be members of the Association, and [iv] that the Declaration shall be fully and completely applicable to the Condominium Units in all respects;

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant, in accordance with the Declaration, the Successor Declarant does hereby supplement the Declaration to declare and confirm that the Condominium Units created, or to be created, by recordation of appropriate condominium instruments in the Clerk's Office by the Successor Declarant, and/or its successors and assigns, are deemed to be "Units" as defined in the Declaration, that the Declaration shall be fully and completely applicable to the Condominium Units in all respects, and that the owners of the Condominium Units are Class "A" Members of the Bay Creek at Cape Charles Community, as defined the Declaration,

PREPARATION BY:
RETURN TO:

*Consolvo, Markowitz
& Webb, PLLC*

LYNNHURST CORPORATE CENTER II - SUITE 101
760 LYNNHURST PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

thereby entitled to vote in Bay Creek at Cape Charles Community Association, Inc.

ALLOCATION OF VOTES: Upon the date of recordation in the Clerk's Office of condominium instruments creating Condominium Units, the total number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) shall be increased by the number of Condominium Units thereby created and the corresponding number of Class "A" Members, as defined in the Declaration, entitled to vote in Bay Creek at Cape Charles Community Association, Inc., shall correspond to the total number of Units, whether created and established by the Successor Declarant, by recordation of further amendments and/or supplements to the Declaration, or created by Successor Declarant, and/or its successors and assigns, as Condominium Units, by recordation of further condominium instruments, all as more fully set forth in said Declaration and herein.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 29th day of December, 2005.

PREPARATION BY:
RETURN TO:

Consolo, Markowitz
& Webb, PLLC

LYNNHAGEN CORPORATE CENTER II - SUITE 101
750 LYNNHAGEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

Richard S. Foster
Notary Public

My Commission Expires:

Oct 31, 2006

INSTRUMENT #050004611
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
DECEMBER 29, 2005 AT 10:39AM
TRACI L. JOHNSON, CLERK
RECORDED BY: AFS

060000789

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 16th day of March, 2006, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as

PREPARATION BY:
RETURN TO:

*Consolvo, Markowitz
& Webb, PLLC*

LYNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

Parcel Number: Out of 97-A-IB 98-A-1B

*Adds Plantation Pointe
Lots 39-53*

Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded as Instrument Number 040001918; [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded as Instrument Number 050000247; [12] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 3, 2005 and recorded as Instrument Number 050001734; [13] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 20, 2005 and recorded as Instrument Number 050001960; [14] Supplement to Declaration of Covenants, Conditions and Restrictions dated February 24, 2005 and recorded as Instrument Number 050002309; and [15] Supplement to Declaration of Covenants, Conditions and Restrictions dated December 29, 2005 and recorded as Instrument Number 050004611.

WHEREAS, a portion of the real property described in Exhibit B, appended to the Declaration, has been subdivided by Successor Declarant into residential building lots that shall now be "Units" as defined in Article II of the Declaration and shall now be within the scope of the Declaration, said Units being more particularly described as LOTS 39 through 53, both inclusive, as shown on that certain plat entitled "SUBDIVISION OF PLANTATION POINTE OF BAY CREEK AT CAPE CHARLES - SECTION TWO, AND 'PARCEL E' PHASE E BAY CREEK AT CAPE CHARLES AND COURSE PARCEL 2B-4B AND F-2B, PLANTATION POINTE OF BAY CREEK AT CAPE CHARLES - SECTION ONE, FOR BAY CREEK, L.L.C. (FORMERLY BAYMARK CONSTRUCTION CORPORATION) (DEED REFERENCE: D.B. 317, P. 378) (MAP BOOK REFERENCES: M.B. 26, P. 62 AND M.B. 27, 26), TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 34, at Pages 48 and 49.

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the Plantation Pointe-Section Two Units are deemed to be "Units" as defined in the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

ALLOCATION OF VOTES: Upon the date of recordation in the Clerk's Office of this instrument, the total number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) shall be increased by the number of Units hereby created and the corresponding number of Class "A" Members, as defined in the Declaration, entitled to vote in Bay Creek at Cape Charles Community Association, Inc., shall correspond to the total number of Units, whether created and established by the Successor Declarant by recordation of further amendments and/or supplements to the Declaration, or created by the Successor Declarant, and/or its successors and assigns, as Condominium Units by recordation of condominium instruments, all as more fully set forth in said Declaration and herein.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect and shall pertain to the Plantation Pointe-Section Two Units.

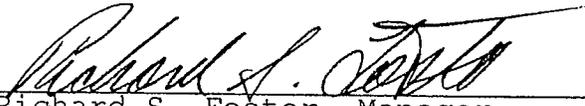
PREPARATION BY:
RETURN TO:

*onsolvo, Markowitz
& Webb, PLLC*

LYNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

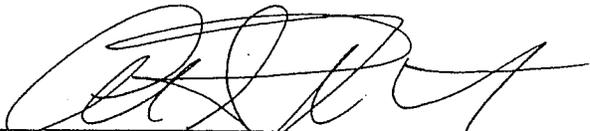
IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized Manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: 
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State, do hereby certify that Richard S. Foster, as Manager of Bay Creek, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 16th day of March, 2006.



Notary Public

My Commission Expires:

Oct. 31, 2006

INSTRUMENT #060000789
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MARCH 17, 2006 AT 12:10PM
TRACI L. JOHNSON, CLERK

RECORDED BY: SBS

PREPARATION BY:
RETURN TO:

*Consolo, Markowitz
& Webb, PLLC*

LYNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

060000818

SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 21st day of March, 2006, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated

PREPARATION BY: RETURN TO: Consolo, Markowitz & Webb, PLLC LYNNHAVEN CORPORATE CENTER II - SUITE 101 760 LYNNHAVEN PARKWAY VIRGINIA BEACH, VIRGINIA 23452-7325

Parcel Number(s): Part of 90-2-H

Adel's Family III

September 5, 2001 and recorded in Deed Book 337, at Page 519; [7] Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded as Instrument Number 040001918; [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded as Instrument Number 050000247; [12] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 3, 2005 and recorded as Instrument Number 050001734; [13] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 20, 2005 and recorded as Instrument Number 050001960; [14] Supplement to Declaration of Covenants, Conditions and Restrictions dated February 24, 2005 and recorded as Instrument Number 050002309; [15] Supplement to Declaration of Covenants, Conditions and Restrictions dated December 29, 2005 and recorded as Instrument Number 050004611; and [16] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 16, 2006 and recorded as Instrument Number 060000789.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, owned by the Successor Declarant, is described as "SECTION 1-A 296,889.3 SQ.FT. 6.816 ACRES", "PART OF SECTION 1-B188,740.2 SQ.FT. 4.333 ACRES", "PART OF SECTION 1-B 49,952.8 SQ.FT. 1.147 ACRES", "SECTION 2 347,371.2 SQ.FT. 7.975 ACRES" and "SECTION 3 395,525.3 SQ.FT. 9.080 ACRES", on that certain plat entitled "REVISED PLAT OF VILLAGE H BEING A RESUBDIVISION OF 'COURSE PARCEL 2B-4B' AND 'PARCEL H' OF BAY CREEK AT CAPE CHARLES PHASE TWO FOR BAY CREEK LLC (FORMERLY BAYMARK CONSTRUCTION CORPORATION) (DEED REFERENCE: D.B.317, P.378) (MAP BOOK REFERENCES: M.B.26, P.62 AND M.B.27 P.26) TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT NORTHAMPTON COUNTY, VIRGINIA" prepared by LandTech Resources, Inc., recorded in the Clerk's Office of the Circuit Court of Northampton County in Plat Book 33, at page 92, as Instrument Number 050000916; and

WHEREAS, Successor Declarant is developing a portion of Village H into a residential condominium community within Bay Creek at Cape Charles known as FAIRWAYS III CONDOMINIUM (hereinafter the "Condominium") to be comprised of approximately seventy-two (72) condominium units (hereinafter the "Condominium Units"), reference being made to that certain Declaration of Condominium of Fairways III Condominium dated March 21, 2006 and to be recorded in the Clerk's Office simultaneously herewith; and

WHEREAS, the Successor Declarant intends to confirm that [i] all of the Condominium Units in the Condominium, as each respective phase of the Condominium is established by recordation of appropriate condominium instruments in the Clerk's Office, shall be subject to the Declaration and be part of the Bay Creek at Cape Charles community, [ii] that the Condominium Units are deemed to be "Units" as defined in the Declaration, [iii] that all of the owners of the Condominium Units shall be members of the Association, and [iv] that the Declaration shall be fully and completely applicable to the Condominium Units in all respects;

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant, in accordance with the Declaration, the Successor Declarant does hereby supplement the Declaration to declare and confirm that the Condominium Units created, or to be created, by recordation of appropriate condominium instruments in the Clerk's Office by the Successor Declarant, and/or its successors and assigns, are deemed to be "Units" as defined in the Declaration, that the Declaration shall be fully and completely

PREPARATION BY:
RETURN TO:

*Consolo, Markowitz
& Webb, P.C.*

LYNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

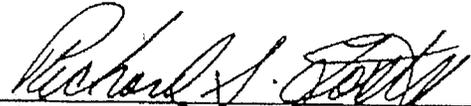
applicable to the Condominium Units in all respects, and that the owners of the Condominium Units are Class "A" Members of the Bay Creek at Cape Charles Community, as defined the Declaration, thereby entitled to vote in Bay Creek at Cape Charles Community Association, Inc. (the "Association" herein).

ALLOCATION OF VOTES: Upon the date of recordation in the Clerk's Office of condominium instruments creating Condominium Units, the total number of Units in BAY CREEK AT CAPE CHARLES (as defined in the Declaration) shall be increased by the number of Condominium Units thereby created and the corresponding number of Class "A" Members, as defined in the Declaration, entitled to vote in Bay Creek at Cape Charles Community Association, Inc., shall correspond to the total number of Units, whether created and established by the Successor Declarant, by recordation of further amendments and/or supplements to the Declaration, or created by Successor Declarant, and/or its successors and assigns, as Condominium Units, by recordation of further condominium instruments, all as more fully set forth in said Declaration and herein.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: 
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 21st day of March, 2006.



PREPARATION BY:
RETURN TO:
*Consolvo, Markowitz
& Webb, PLLC*
LYNNHAVEN CORPORATE CENTER II - SUITE 101
760 LYNNHAVEN PARKWAY
VIRGINIA BEACH, VIRGINIA 23452-7325

My Commission Expires: Oct 31, 2008
INSTRUMENT NO. 000000018
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
MARCH 21, 2006 AT 01:34PM
TRACI L. JOHNSON, CLERK
RECORDED BY: AFS

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, Made this 5th day of October, 2001, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR; also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 316, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 16, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 6, 2001 and recorded in Deed Book 337, at Page 519; [7]

Parcel Numbers: Part of 00097-(0A)-00-000F
00097-(0A)-00-000T
Part of 00097-(0A)-1B

Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded as Instrument Number 020002520; [6] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded as Instrument Number 040001918; [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded as Instrument Number 050000246; [12] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 3, 2005 and recorded as Instrument Number 050001734; [13] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 20, 2005 and recorded as Instrument Number 050001960; [14] Supplement to Declaration of Covenants, Conditions and Restrictions dated February 24, 2005 and recorded as Instrument Number 050002309; [15] Supplement to Declaration of Covenants, Conditions and Restrictions dated December 29, 2005 and recorded as Instrument Number 050004611; [16] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 16, 2006 and recorded as Instrument Number 060000769; and [17] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 21, 2006 and recorded as Instrument Number 060000818.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by the Successor Declarant into parcels that shall now be included within the scope of the Declaration, said parcels being more particularly described as follows:

PARCEL 1) ALL THAT CERTAIN piece or parcel of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in Northampton County, Virginia, designated as "PARCEL R-A Total Area = 34.2 AC.", on that certain plat entitled "PLAT OF PARCEL R-A, BEING A RESUBDIVISION OF PARCEL R AND GOLF COURSE PARCEL 1C-9C-A (P.B. 32 P. 34 - P.B. 27 P. 26 - P.B. 26 P. 62) BAY CREEK AT CAPE CHARLES FOR BAYMARK CONSTRUCTION CORPORATION, OCTOBER 2, 2004, CAPE CHARLES, VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 33, at pages 45 and 46;

PARCEL 2) ALL THAT CERTAIN piece or parcel of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in Northampton County, Virginia, designated as "PARCEL T", on that certain plat entitled "SUBDIVISION OF PROPERTY STANDING IN THE NAME OF 'BROWN AND ROOT, INC.' BAY CREEK AT CAPE CHARLES, PHASE 'T' AND PHASE 'R' (MAP BOOK 26, PAGE 62) (MAP BOOK 27, PAGE 26) FOR BAY CREEK, L.L.C., NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 32, at pages 34 through 39; and

PARCEL 3) ALL THAT CERTAIN piece or parcel of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in the Town of Cape Charles, Capeville District, Northampton County, Virginia, and being known, numbered and designated as "Parcel E-1", as shown on that certain plat entitled "SUBDIVISION OF PLANTATION POINTE OF BAY CREEK AT CAPE CHARLES - SECTION TWO, AND 'PARCEL E' PHASE E BAY CREEK AT CAPE CHARLES AND COURSE PARCEL 2B-4B AND F-2B, PLANTATION POINTE OF BAY CREEK AT CAPE CHARLES - SECTION ONE, FOR BAY CREEK, L.L.C. (FORMERLY BAYMARK CONSTRUCTION

CORPORATION) (DEED REFERENCE: D.B. 317, P. 378) (MAP BOOK REFERENCES: M.B. 26, P. 62 AND M.B. 27, 26), TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 34, at Pages 48 and 49.

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the aforesaid parcels shall be included within the scope of the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

CONFIRMATION BY BAYMARK CONSTRUCTION CORPORATION: Baymark Construction Corporation, as the owner thereof, joins in the execution of this instrument to evidence its consent to the property described in Parcel 1 being subject to the Declaration in all respects.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, and BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation, have each caused this instrument to be executed in the names of the respective entities by duly authorized Manager and President.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: Richard S. Foster
Richard S. Foster, Manager

BAYMARK CONSTRUCTION CORPORATION,
a Virginia corporation

By: Richard S. Foster
Richard S. Foster, President

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 10th day of October, 2007.

Carl S. Markowitz
Notary

My Commission Expires: Oct 31 2010
Notary Registration Number: 193652



COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as President of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 10th day of October, 2007.

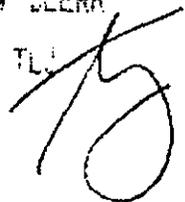
Carl S. Markowitz
Notary Public

My Commission Expires: Oct 31 2010
Notary Registration Number: 193652



INSTRUMENT #070002543
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
OCTOBER 10, 2007 AT 12:50PM
TRACI L. JOHNSON, CLERK

RECORDED BY: TLL

A handwritten signature in black ink, appearing to be 'TLL' with a large flourish, positioned to the right of the printed name 'TRACI L. JOHNSON, CLERK'.

SUPPLEMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BAY CREEK AT CAPE CHARLES

THIS SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, Made this 21st day of December, 2007, by BAY CREEK, L.L.C., a Virginia limited liability company (hereinafter referred to as the "Successor Declarant"), GRANTOR. Also index in the name of BAYMARK CONSTRUCTION CORPORATION, a Virginia corporation (hereinafter "Baymark"), GRANTOR for indexing purposes.

WITNESSETH:

WHEREAS, by that certain Declaration of Covenants, Conditions and Restrictions dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia (the "Clerk's Office") on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), Baymark did subject certain real property, described in Exhibit A appended thereto, situate, lying and being in the Town of Cape Charles, Northampton County, Virginia to the covenants, conditions and restrictions set forth in said Declaration, reference being hereby made to said Declaration for a more particular description of said covenants, conditions and restrictions; it being the intent of Baymark that the property subjected to said Declaration, whether described therein or included within the scope thereof in the future, be a part of a residential community known as "BAY CREEK AT CAPE CHARLES"; and

WHEREAS, Article II and Article X, Section 10.7 of the Declaration provide that the rights and privileges of Baymark, as the original Declarant, may be assigned by written instrument; and

WHEREAS, Baymark assigned all of its rights, powers, and privileges, as the original Declarant, to the Successor Declarant by that certain Assignment of Declarant's Rights dated March 20, 2000 and recorded in the Clerk's Office on March 22, 2000 in Deed Book 318, at Page 199; and

WHEREAS, the Declaration has been supplemented and/or amended by the following instruments duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia: [1] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 355; [2] Supplement to Declaration of Covenants, Conditions and Restrictions dated August 1, 2000 and recorded in Deed Book 322, at Page 357; [3] Amendment to Declaration of Covenants, Conditions and Restrictions dated October 18, 2000 and recorded in Deed Book 325, at Page 185; [4] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 5, 2001 and recorded in Deed Book 329, at Page 796; [5] Amendment to Declaration of Covenants, Conditions and Restrictions dated March 15, 2001 and recorded in Deed Book 330, at Page 271; [6] Amendment to Declaration of Covenants, Conditions and Restrictions dated September 5, 2001 and recorded in Deed Book 337, at Page 519; [7]

Parcel Number: Part of 00090-A-1E

Supplement to Declaration of Covenants, Conditions and Restrictions dated September 25, 2002 and recorded as Instrument Number 020002520; [8] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as Instrument Number 030001622; [9] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 19, 2003 and recorded as Instrument Number 030001623; [10] Supplement to Declaration of Covenants, Conditions and Restrictions dated June 14, 2004 and recorded as Instrument Number 040001918; [11] Supplement to Declaration of Covenants, Conditions and Restrictions dated January 20, 2005 and recorded as Instrument Number 050000246; [12] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 3, 2005 and recorded as Instrument Number 050001734; [13] Supplement to Declaration of Covenants, Conditions and Restrictions dated May 20, 2005 and recorded as Instrument Number 050001960; [14] Supplement to Declaration of Covenants, Conditions and Restrictions dated February 24, 2005 and recorded as Instrument Number 050002309; [15] Supplement to Declaration of Covenants, Conditions and Restrictions dated December 29, 2005 and recorded as Instrument Number 050004611; [16] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 16, 2006 and recorded as Instrument Number 060000789; [17] Supplement to Declaration of Covenants, Conditions and Restrictions dated March 21, 2006 and recorded as Instrument Number 060000818; and [18] Supplement to Declaration of Covenants, Conditions and Restrictions dated October 5, 2007 and recorded as Instrument Number 070002543.

WHEREAS, a portion of the real property described in Exhibit B appended to the Declaration, has been subdivided by the Successor Declarant into a parcel that shall now be included within the scope of the Declaration, said parcel being more particularly described as follows:

ALL THAT CERTAIN piece or parcel of land, with the buildings and improvements thereon and the appurtenances thereunto belonging, situate, lying and being in Northampton County, Virginia, designated as "PHASE M", on that certain plat entitled "SUBDIVISION OF BAY CREEK AT CAPE CHARLES PHASE L-1, PHASE M, AND PHASE N-1 FOR BAY CREEK, L.L.C., TOWN OF CAPE CHARLES, CAPEVILLE DISTRICT, NORTHAMPTON CO., VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia in Plat Book 39, at pages 50 through 54.

NOW THEREFORE, pursuant to the rights, powers and privileges of the Successor Declarant in accordance with the Declaration, Successor Declarant does hereby supplement the Declaration to declare that the aforesaid parcels shall be included within the scope of the Declaration and that the Declaration shall be fully and completely applicable thereto in all respects.

CONFIRMATION OF DECLARATION: Except as modified by this Supplement, all of the conditions, terms and provisions of the Declaration, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Successor Declarant, and shall continue to remain in full force and effect.

IN WITNESS WHEREOF, BAY CREEK, L.L.C., a Virginia limited liability company, has caused this instrument to be executed in its name by its duly authorized Manager.

BAY CREEK, L.L.C.,
a Virginia limited liability company

By: *Richard S. Foster*
Richard S. Foster, Manager

COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as Manager of BAY CREEK, L.L.C., a Virginia limited liability company, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 21st day of December, 2007.

[Signature]
Notary Public

My Commission Expires: Oct 31, 2010
Notary Registration Number: 193652



INSTRUMENT #070003252
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
DECEMBER 21, 2007 AT 10:09AM
TRACI L. JOHNSON, CLERK
RECORDED BY: 589



222 Central Park Avenue
Virginia Beach, VA 23462-3026
757-490-3000
Fax: 757-497-1914
www.pendercoward.com

March 29, 2006

DOUGLAS J. GLENN
(757) 490-6254
dglenn@pendercoward.com

Via E-Mail and First-Class Mail

Mr. B.G. Campbell
COMMUNITY GROUP, INC.
4534 Bonney Road
Virginia Beach, Virginia 23462

***Re: Bay Creek at Cape Charles Community Association, Inc.
My File No.: 19850 (General Counsel Matters)***

Dear B.G.:

You have indicated that the Association's Declarant desires to promulgate a new rule or Architectural Guideline which requires that exterior HVAC systems and trash receptacles stored outside of any dwelling be screened from view. The Declarant would like to apply this new rule or Guideline both retroactively to existing Units as well as prospectively to newly constructed Units.

I have reviewed the Declaration of Covenants, Conditions and Restrictions for bay Creek at Cape Charles dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration"), including Exhibit C thereto which sets out the Initial Restrictions and Rules. I am not aware that these Initial Restrictions and Rules have been amended. I understand that there also may be Architectural Guidelines for improvements within the Association that exist related to initial construction but work under the assumption that same have not been published to Owners. That said, I do have, as you know, copy of the proposed new Design Guidelines from the Architectural Review Committee and will reference same in this discussion.

As you may recall, there is copy of a "Corporate Resolution" dated September 26, 2001, in my package of the Association's Governing Documents which purports to adopt by the Board a resolution relating to the storage of trash receptacles which requires that same be "... screened from adjacent and surrounding property". The next sentence of this resolution, however, mandates ("shall") that such containers "be laced inside the garage or storage shed" when not being made available for pick-up. Obviously, if maintained inside, no screening is necessary, so this resolution is confusing. The resolution goes on to provide that the Association's ARC may adopt rules and regulations related to storage. Since the Initial Restrictions and Rules have not been amended and no ARC guidelines published to Owners, I am not sure that a "corporate resolution" not properly promulgated as a rule pursuant to Article II, §3.2, of the Declaration is enforceable. So, to obviate any confusion, and for the reasons I will discuss below, I will propose a modified rule for adoption by the Association.

Obviously, the Board has the ability to modify or expand Initial Restrictions and Rules pursuant to Article III, §3.2(a) of the Declaration. By §3.3 of the Declaration, each Owner within the Association acknowledges that the Restrictions and Rules may change from time-to-time; thus, retroactive enforcement is possible. Further, the Declarant's proposed rule does not appear, in concept, to violate any of the provisions of §3.4 of the Declaration protecting the Association's Owners.

Presently, Rule 2(w) of the Association's Restrictions and Rules provides that the "... placement ... of [a garbage can], permanently or temporarily, on the outside portions of the Unit" is prohibited except in strict compliance with Article IV of the Declaration. This rule specifically includes "garbage cans" among the "things" covered. Thus, one means of enforcement retroactively is to apply this existing rule to any Unit where placement of the garbage can on a Lot has not been affirmatively approved. The Association could give such notice and require application with approval conditioned upon placement and screening. The weakness in this current rule is the reference to Article IV of the Declaration, which concerns the Architectural Guidelines. Since they haven't been published to Owners, only Builders, I do not know that a Court would enforce any provision of such guidelines since you cannot reasonably comply with that which you do not know.

In §8.16 of the proposed new Design Guidelines, all mechanical equipment located outside of a Unit must be "properly housed or landscaped in a manner that will blend with the site and residences". If this same provision is provided in the current Guidelines, then, certainly, when this provision is read in conjunction with Rule 2(w), any garbage can or HVAC system located on the exterior of any Unit must be screened in a manner that meets the Association's satisfaction. However, since the current Guidelines have not been published to Owners, we need to rely more on Rule 2(w) for enforcement.

Section 4.3(a) of the Declaration provides that "[a]ny amendments to the Architectural Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced." This limitation applies to "structures", which arguably would include HVAC systems but certainly not garbage cans; thus, requiring retroactive screening of garbage cans is probably authorized by §4.3(a) and covered by Rule 2(w), either as presently in force or modified.

An HVAC system is likely part of the structure so the question is whether requiring some screening is a "modification to" the HVAC system itself. Contrary to our brief telephone discussion on this issue, I think the answer has to be "no" as the spirit of the limitation of §4.3(a) is to obviate future costs to an Owner for an approved "structure" that may be difficult or impossible to move or modify. Requiring screening, either by structure or landscaping, is an aesthetic issue that arguably falls within the purview of the Board in the course of its responsibility to maintain the consistent aesthetic quality and value of the neighborhood.

Accordingly, to eliminate any present confusion and insure that on a going forward basis, the Association enjoys an enforceable rule, I would recommend a change to Rule 2(w) of the Initial Restrictions and Rules for the Association, copy of which is attached, to incorporate some of the language of §8.16 of the new Design Guidelines and provide for enforcement. We need to follow the process provided in §3.2(a) by placing adoption of this modified rule on the Board's meeting agenda and publishing such agenda, clearly denoting the consideration of the rule change, and give notice of

March 29, 2006

Page 3

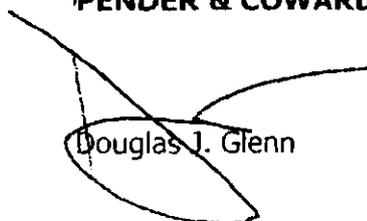
same at least five (5) business days prior to the meeting. Voting Members may be heard by the Board at such meeting but the rule change shall be effective unless either the Declarant or the Voting Members representing 50% or more of the Class A votes object. In order for the Voting Members to object, Voting Members representing at least 10% of the Class A votes of the Association must first petition the Board for a special meeting and then evidence that Voting Members representing 50% or more of the Class A votes object. Absent objection, the Board may adopt the rule change and publish same with an effective date not less than thirty (30) days thereafter pursuant to §3.2(c).

Hopefully the foregoing is responsive to your inquiry. If you have additional questions or concern regarding what I have related above, please do not hesitate to contact me at your earliest possible convenience. Obviously, I am available to meet with you at the earliest opportunity should there be any additional questions or concerns.

With kind regards, I remain,

Very truly yours,

PENDER & COWARD, P.C.



Douglas J. Glenn

Enclosure
DJG/daj

**AMENDMENT TO INITIAL RULES AND RESTRICTIONS OF
BAY CREEK AT CAPE CHARLES**

THIS AMENDMENT (the "Amendment") TO THE INITIAL RULES AND RESTRICTIONS adopted by the Board of Directors (the "Board") for the **BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.**, a Virginia non-stock corporation, (the "Association") this _____ day of _____, 2006, pursuant to Article III, §3.2, of the Declaration of Covenants, Conditions and Restrictions for the Association dated February 1, 2000, and recorded in the Clerk's Office of the Circuit Court of Northampton County, Virginia on February 3, 2000 in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration").

NOW THEREFORE, pursuant to said Article III, §3.2(a) of the Declaration and pursuant to the rights, powers and privileges of the Association's Board, the Initial Rules and Restrictions for the Association are amended as follows:

1. Subsection (iv) is hereby added to Rule 2(w) and same shall read as follows:
 - (iv) all garbage cans placed on the outside portion of any Unit shall be screened, by structure or landscaping, from adjacent Units and surrounding property in a manner that will blend with the Unit. Such screening shall be approved in advance by the Association.

Except as modified by this Amendment, all of the conditions, terms and provisions of the Association's Initial Restrictions and Rules, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Association's Board and shall continue to remain in full force and effect.

This Amendment shall be effective as of the _____ day of _____, 2006.

**BAY CREEK AT CAPE CHARLES COMMUNITY
ASSOCIATION, INC.,**
a Virginia non-stock corporation

By _____

Richard S. Foster, President

Attest:

S. Scott Foster, Secretary/Treasurer

COMMONWEALTH OF VIRGINIA

CITY OF VIRGINIA BEACH, to-wit

I the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as President of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia non-stock corporation, whose name as such is signed to the foregoing writing, has acknowledged the same before me this _____ day of _____, 200____.

Notary Public

My Commission Expires: _____



*Bay Creek at Cape Charles
Community Association*

April 15, 2005

MEMO

AMENDMENTS - A copy of the recently recorded amendments is enclosed for your files.

- Voting Members will be elected based on certificates of occupancy that have been issued and not on lot sales.
- Builders will have 9 months to complete a house.
- Please place the amendments with your Bay Creek documents. They have been three-hole punched for your convenience.

SWIMMING POOL - It is our plan to have the swimming pool available for use by May 14th. All improvements and pool furniture are expected to be in place.

NO FISHING IN BAY CREEK LAKES - Fishing is *not* permitted anywhere in Bay Creek other than in the Chesapeake Bay. Most of the lakes on the golf course and the surrounding community lakes do not have a shallow shelf near the bank and are unsafe for fishing. In addition, the lakes have been stocked with carp to control algae growth.

VACANT LOTS IN BAY CREEK - Any vacant lot that has not been maintained and has weed and vegetation growth and/or debris will be serviced by the Association and the amount charged to the homeowner.

This notice applies to ALL vacant lots in Bay Creek.

You can call Charles Lange for service quotes at Bay Creek Golf Club at 331-8345 or fax for proposal at 331-1476. Please provide your lot number and neighborhood, example: Colonies, Heron Pointe, etc. Help keep your community beautiful. (*This is the second notice for lot maintenance.*)

The deadline for maintenance is May 1, 2005.

**AMENDMENT TO INITIAL RULES AND RESTRICTIONS OF
BAY CREEK AT CAPE CHARLES**

THIS AMENDMENT (the "Amendment") TO THE INITIAL RULES AND RESTRICTIONS adopted by the Board of Directors (the "Board") for the **BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.**, a Virginia non-stock corporation, (the "Association") this 14 day of June, 2007, pursuant to Article III, §3.2, of the Declaration of Covenants, Conditions and Restrictions for the Association dated February 1, 2000, and recorded in the Clerk's Office (the "Clerk's Office") of the Circuit Court of Northampton County, Virginia, on February 3, 2000, in Deed Book 316, at page 656 (hereinafter referred to as the "Declaration").

NOW THEREFORE, pursuant to said Article III, §3.2(a) of the Declaration and pursuant to the rights, powers and privileges of the Association's Board, the Initial Rules and Restrictions for the Association are amended as follows:

1. The following, previously adopted in error as "Paragraph 5", is hereby ratified and renumbered as "Paragraph 6" and shall read as follows:

6. Accumulations of Trash, Garbage, Etc.; Grass, Weeds and other Foreign Growth. Each Owner of any Unit within the Association shall maintain such Unit at all times free from any accumulation of trash, litter, refuse, rubbish or other waste matter, whether liquid or solid, which might endanger the health or safety of other Owners of the Association or otherwise constitute a nuisance, and shall cut or remove grass, weeds and other foreign growth on such Unit as often as may be necessary to prevent breeding and harboring places for insects, reptiles and rodents and prevent nuisances and other hazards to the health or safety of the Owners of the Association. The growth of grass, weeds and the like in excess of six (6) inches in height shall be *prima facie* evidence of a violation of this Rule.

2. For purposes of clarity, the last sentence of Paragraph 5, as adopted by the Successor Declarant as of September 5, 2001, and recorded in the Clerk's Office on October 15, 2002, as Instrument #020002520, is hereby amended to read as follows:

The use of any sign for the purpose of identification or selling of a Unit, is prohibited, except signs identifying the initial builder of any Unit during the initial and ordinary course of construction.

Except as modified by this Amendment, all of the conditions, terms and provisions of the Association's Initial Restrictions and Rules, as the same may have heretofore been supplemented and/or amended, are hereby expressly ratified and confirmed by the Association's Board and shall continue to remain in full force and effect.

This Amendment shall be effective as of the 14 day of June, 2007.

BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.,
a Virginia non-stock corporation

By Richard S. Foster

Richard S. Foster, President

Attest:

[Signature]
S. Scott Foster, Secretary/Treasurer

COMMONWEALTH OF VIRGINIA

CITY OF VIRGINIA BEACH, to-wit

I the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Richard S. Foster, as President of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia non-stock corporation, whose name as such is signed to the foregoing writing, has acknowledged the same before me this 14 day of Jan, 2007.

[Signature]
Notary Public

My Commission Expires: 9/30/2010

If, after the Board's consideration and review of the complaint, 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

CORPORATE RESOLUTION
of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

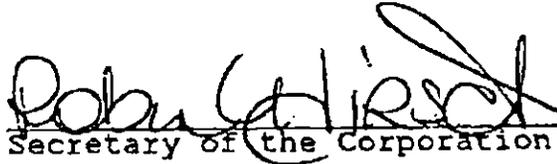
The following resolution was unanimously approved by the Board of Directors of BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC., a Virginia corporation, at a meeting of the Board held on the 7th day of March, 2001, and remains a valid and subsisting resolution of the Corporation:

WHEREAS, a portion of the Bay Creek subdivision has been developed by the Successor Declarant, Bay Creek, L.L.C., into LOTS 1 through 72, both inclusive, as shown on that certain plat entitled "PLAT OF BAY CREEK AT CAPE CHARLES, PHASE B, BEING A SUBDIVISION OF PARCEL B, BAY CREEK - PHASE THREE, M.B. 29, P. 1, REF. D.B. 177, P. 431, D.B. 311, P. 516, D.B. 317, P. 378, TOWN OF CAPE CHARLES, NORTHAMPTON COUNTY, VIRGINIA", duly recorded in the Clerk's Office of the Circuit Court of Northampton County in Map Book 29, at Pages 29 through 38 (hereinafter the "Phase B Units"); and

WHEREAS, the Association wishes to provide for certain lawn maintenance by the Association within the Phase B Units, upon those portions of the Phase B Units initially established as lawns therein by the builder of residences upon the Units;

BE IT RESOLVED THEREFORE, that the Board does hereby declare that the portions of the Phase B Units that become established as lawn areas, shall be maintained by the Association following the initial installation of such lawns by the builder of residences upon the Units and/or the Association. The Association shall have the power and authority to assess the future owners of the individual Phase B Units for the costs and expenses incurred by the Association due to said lawn maintenance, all in the exercise of its power and authority as set forth in the Declaration.

Given under my hand this 7th day of March, 2001.


Secretary of the Corporation

Attest:


President of the Corporation

**Books and Records
Cost Schedule Policy Resolution
Bay Creek Community Association, Inc.**

Date approved by the Board of Directors:

WHEREAS, Section 55-510 of the Virginia Property Owners' Association Act provides that charges for access to association books and records may be imposed; and,

WHEREAS, Section 55-510D of the Virginia Property Owners' Association Act provides that charges may be imposed only in accordance with a cost schedule adopted by the Board; and,

WHEREAS, the Board of Directors desires to create a policy and procedure by which owners in good standing may request and be provided access to books and records,

NOW THEREFORE LET IT BE RESOLVED, that the following procedure shall be used for members requesting access to books and records.

All books and records kept by or on behalf of the association, including, but not limited to the association's membership list, addresses and aggregate salary information of association employees, shall be available for examination and copying by an owner in good standing or his authorized agent so long as the request is for a proper purpose related to his membership in the association, and not for pecuniary gain or commercial solicitation. This right of examination shall exist without reference to the duration of membership and may be exercised (i) only during reasonable business hours or at a mutually convenient time and location and (ii) upon five days written notice reasonably identifying the purpose for the request and the specific books and records of the association requested.

Books and records kept by or on behalf of an association may be withheld from examination or copying by owners and contract purchasers to the extent that they are drafts not yet incorporated into the association's books and records or if such books and records concern:

1. Personnel matters relating to specific identified persons or a person's medical records;
 2. Contracts, leases, and other commercial transactions to purchase or provide goods or services currently in or under negotiation;
 3. Pending or probable litigation. Probable litigation means these instances where there has been a specific threat of litigation from a party or the legal counsel of a party;
 4. Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the association documents or rules and regulations promulgated pursuant to §55-513;
 5. Communications with legal counsel which relates to subdivisions 1 through 4 or that are protected by the attorney-client privilege or the attorney work product doctrine;
 6. Disclosure of information in violation of law;
 7. Meeting minutes or other confidential records of an executive session of the board of directors held in accordance with subsection C of § 55-510.1;
 8. Documentation, correspondence or management or board reports compiled for or on behalf of the association or the board by its agents or committees for consideration by the board in executive session; or
 9. Individual unit owner or member files, other than those of the requesting lot owner, including any individual lot owner's or member's files kept by or on behalf of the association.
- The association shall impose and collect a charge, reflecting the reasonable costs of materials and labor, not to exceed the actual costs thereof. **The charges are: Labor - \$15.00 per 15 minute increment (\$60 per hour) and Materials - Copy cost of \$.15 per page for black and white; \$.75 per page for color; copies of larger documents (greater than 8.5" X 11") shall be charged the actual copying cost from a third party.**

CONSENT IN WRITING
OF
THE BOARD OF DIRECTORS
OF
BAY CREEK AT CAPE CHARLES COMMUNITY ASSOCIATION, INC.

Pursuant to §13.1-685 of the Code of Virginia of 1950, as amended, the Board of Directors of Bay Creek At Cape Charles Community Association, Inc. (the "Association"), by unanimous consent of the undersigned, being all of the Directors of the Corporation, adopts the following resolutions:

WHEREAS: Bay Creek Marina and Resort, LLC owns lot 64A in Marina Village East; and,

WHEREAS: An entrance feature for Marina Village East is currently located on Lot 64A; and,

WHEREAS: Bay Creek Marina and Resort, LLC desires to convey to the Association the entrance feature along with so much of Lot 64A as is reasonably necessary to access and maintain the entrance feature; and,

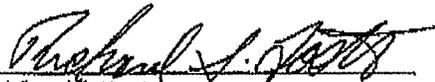
WHEREAS: Bay Creek Marina and Resort, LLC has agreed to convey the balance of Lot 64A to the owners of the adjacent Lot 64, by way of a lot line adjustment that enlarges Lot 64 and reduces the size of Lot 64A.

Now therefore, the undersigned Directors finding it to be in the best interest of the Association resolve as follows:

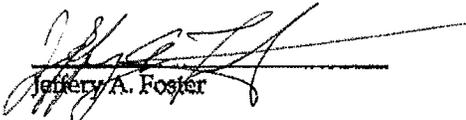
RESOLVED: That the Association will accept as common area the conveyance of Lot 64A from Bay Creek Marina and Resort, LLC; and,

RESOLVED: That upon and after recordation of the lot line adjustment, Lot 64 shall continue to be assessed as one "Unit" subject to the Declaration.

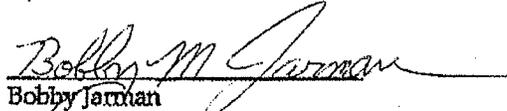
RESOLVED: That this Consent in Writing is effective as of November 14, 2013.


Richard S. Foster

11-14-13 Date Signed


Jeffrey A. Foster

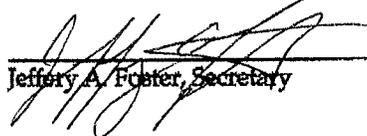
11-14-13 Date Signed


Bobby Jarman

11-14-13 Date Signed

Received on behalf of the Association this 14 day of November, 2013.

By:


Jeffery A. Foster, Secretary

**Budget Summary Report
Bay Creek at Cape Charles
2014 Annual Budget**

	<u>2014 Budget</u>
Assessment Income	
4000 - Assessments	1,391,280.00
4120 - Working Cap Contribution	2,325.00
4130 - New Qtr Lawn Maint	73,440.00
4135 - Bayside Village Lawn Maint	4,800.00
Total Assessment Income	1,471,845.00
Collections Income	
4710 - Late Charges	7,000.00
Total Collections Income	7,000.00
Other Income	
4835 - Miscellaneous Income	500.00
Total Other Income	500.00
Investment Income	
4910 - Interest & Dividend Inc	500.00
Total Investment Income	500.00
Total Bay Creek at Cape Charles Income	1,479,845.00
Administrative	
5010 - Uncollectable Accounts	20,000.00
5110 - Car Decal	2,000.00
5115 - Website	800.00
5195 - Other Administrative	1,000.00
5210 - Printing	17,000.00
5215 - Postage/Distribution	5,000.00
Total Administrative	45,800.00
Insurance	
5400 - Insurance	9,000.00
Total Insurance	9,000.00
Utilities	
6000 - Electricity	55,000.00
6025 - Water	4,000.00
6045 - Telephone Gate house	6,000.00
6050 - Monitor Phone	700.00
Total Utilities	65,700.00
Landscaping	
6100 - Grounds Maintenance	332,000.00
6115 - Lawn Maint-New Quarter	72,000.00
6150 - Lawn Maint-Bayside Village	3,600.00
6199 - Grounds Improve & Repair	20,000.00
Total Landscaping	427,600.00
Irrigation	
6200 - Irrigation System Maintenance	23,300.00
Total Irrigation	23,300.00
Operations	
6300 - Corporate Fees	800.00
Total Operations	800.00

**Budget Summary Report
Bay Creek at Cape Charles
2014 Annual Budget**

	2014 Budget
Contracted Services	
6434 - Mosquito Control	3,500.00
6440 - Security	166,000.00
Total Contracted Services	169,500.00
Repair & Maintenance	
6515 - General Bldg Maint & Rep	47,000.00
6585 - Fountains	18,900.00
6595 - Gate Maintenance	3,500.00
6600 - Lake maintenance	18,750.00
6695 - Pool Rplc/Rpr	3,000.00
6700 - Pool Maintenance-Expense	35,000.00
6745 - Flags/Signs Maintenance	3,000.00
6755 - Street/Sidewalk/Cleaning/Snow Removal	5,000.00
6775 - Tunnel Trip	1,000.00
Total Repair & Maintenance	135,150.00
Building Maintenance Exp	
6135 - Breakwater Loan	124,353.00
Total Building Maintenance Exp	124,353.00
Professional Services	
7015 - Accounting/Audit	8,500.00
7020 - Legal	89,482.00
7040 - Management	87,394.00
Total Professional Services	185,376.00
Reserve Expenses	
9800 - Reserves-Replacement	266,733.00
9884 - Reserves-Rpr/Rpl NQ Irrigation	1,440.00
9886 - Res-Rpr/Rpl BSV Irrigation	1,200.00
9908 - Earned Interest Reserve	500.00
9910 - Operating Reserves	23,393.00
Total Reserve Expenses	293,266.00
Total Bay Creek at Cape Charles Expense	1,479,845.00
Total Association Net Income / (Loss)	0.00

Resale Disclosure Statement
Bay Creek at Cape Charles

PLEASE REFER TO PAGE 2 FOR COMPLETE ESCROW INSTRUCTIONS AND DETAILS

Order #: 23-00348168

Statement Date: 10/03/2014

Property Address: 169 Sunset Boulevard Cape Charles VA 23310

Order Date: 10/1/2014
 Requested By: Susan Riehl
 Phone #: (443) 662-0811
 Fax #: (410) 337-0704
 Contact Name:
 Contact Phone:
 Contact Email:

Escrow #:
 Owner / Seller: Susan Riehl
 Closing Date: 10/28/2014
 Buyer's Name: Unknown
 Buyer's Address: unknown,
 City/State/Zip: unknown, unknown unknown
 Buyer's Phone #:

FEES DUE TO COMMUNITY GROUP

Order #	Processing Fee	Expedite Fee	Delivery Fee	Convenience Fee	Tax	Amount Due	Amount Paid	Balance
23-00348168	\$245.75	\$54.50	\$0.00	\$12.00	\$0.00	\$312.25	\$312.25	\$0.00
Post-closing Processing Fees								\$54.50
Other Fees								\$0.00
Total Due								\$54.50

Please reference ALL order number(s) from above on all checks you issue.

ALL FEES/AMOUNTS PAYABLE AT CLOSING

Mail all payments to: **COMMUNITY GROUP**
4534 BONNEY ROAD
VIRGINIA BEACH, VA 23462

PLEASE PROVIDE SEPARATE CHECKS FOR AMOUNTS BELOW:

- Please collect **\$54.50** for above noted fees.

MAKE CHECK PAYABLE TO: Community Group

- Please collect **\$220.00** for Association fees. (See page 2 for Comments & Fee Details)

MAKE CHECK PAYABLE TO: Bay Creek at Cape Charles

Please provide Community Group with:

-Copy of HUD-1 or detailed Settlement Agreement to ensure accurate transfer of ownership.

This information is being provided by Community Group as a courtesy service to lenders and other real estate professionals. Although Community Group believes that the information provided is complete and accurate, the requesting party understands and acknowledges that this information is subject to change without notice and that Community Group is not responsible for any inaccurate or omitted information.

Resale Disclosure Statement
Bay Creek at Cape Charles

FEES DUE TO ASSOCIATION

ADDITIONAL COMMENTS:

<p>REGULAR ASSESSMENTS PAID THROUGH <u>10/31/2014</u></p> <p style="text-align: right;">Current Balance <u>\$65.00</u></p> <p>Association Transfer Fees <u>\$0.00</u></p> <p>Working Capital Contribution <u>\$0.00</u></p> <p>Reserve Contribution <u>\$0.00</u></p> <p>Legal Fees <u>\$0.00</u></p> <p>Buyer's Advanced Assessments <u>\$155.00</u></p> <p>Other Fees <u>\$0.00</u></p> <p>Other Fees <u>\$0.00</u></p> <p>Other Fees <u>\$0.00</u></p> <p style="text-align: right;">TOTAL DUE: <u>\$220.00</u></p>	
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ASSOCIATION ASSESSMENT INFORMATION

Amount of Property Assessment is? **\$155.00**

Frequency of Property Assessment? **Monthly**

The late fee is (enter the actual amount): **\$10.00**

Assessments are due on the (for instance, "5th", "10th"): **1ST OF EACH MONTH**

Late fee interest is (for instance, 10% per annum): **N/A**

Assessment is past due on (for instance, the 5th/the 10th)? **10TH OF EACH MONTH**

Other Assessment amount? **\$0.00**

Purpose of other Assessment?

Amount of any active Special Assessments? **\$0.00**

Purpose of Special Assessment?
N/A

FINANCIAL INFORMATION

Is there a Community Enhancement Fee? **Yes No**

If so, how is Fee determined / calculated? **N/A**

Amount of money in the designated reserve fund intended to be used for long term capital needs? **\$526,339.20**

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Resale Disclosure Statement Bay Creek at Cape Charles

Capital expenditures, if any, approved by the Association for the next 12 months?

None

Expenditure of funds, if any, approved by the Association which shall require an assessment in addition to the regular assessment during the current or immediately succeeding fiscal year?

N/A

Are there any other entities or facilities to which the unit owners may be liable for fees or other charges? If so, explain.

N/A

If there is an Association loan, what is the loan balance?

yes , \$446308.27

Does the Association have any active leasehold that effects the Association? If so, what is the nature of the leasehold, and what is the remaining term of said leasehold?

No

If a Unit/Home is acquired through foreclosure, is mortgage company responsible for Association Assessments? If so, explain?

Yes, from date of closing forward

Is there a working capital, and/or reserve contribution paid by current owner, which is to be refunded to the current owner, by the buyer, at resale closing/settlement? If so, what is amount?

N/A

As a courtesy to Title Companies, and for the purpose of Closing/Settlement assessment calculation, the Daily Assessment Rate is?

\$2.50

LEGAL INFORMATION

Does the Association hold the Right of First Refusal on this property transaction? If so, explain the process for obtaining a waiver and are first mortgage lenders Exempt?

No

Do the legal documents provide for architectural and or landscaping controls and approval?

Yes No

Do the governing documents specifically allow the Association to foreclose on an owner's property for failure to pay Assessments?

Yes No

Are there any liens against this specific Property? If so, explain?

NO

Is the Association involved with any litigation with this specific Association Member? If so, explain?

None

Are there any active judgments against the Association? If so, explain?

No

The case number of pending lawsuits in which the property owners Association is a defendant includes:

None

Do the legal documents provide for mandatory mediation or arbitration?

Yes No

Has the Association filed the Annual Report with the Virginia Common Interest Community Board?

Yes No

The Association is incorporated under the laws of the Commonwealth of Virginia. The name and address of the Registered Agent is:

N/A

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Resale Disclosure Statement Bay Creek at Cape Charles

COVENANT COMPLIANCE INFORMATION

Has the Unit/Home been specifically inspected for compliance with covenants in conjunction with this inquiry? **Yes No**

A description of any conditions on the owner's property, or limited common area assigned thereto that the Association has actual knowledge are in violation of the Covenants/Restrictions, Bylaws or Rules applying to the subdivision/condominium:

No Violations

Has notice been received from any governmental authority concerning any health, safety or building code issues in regards to common area, or Units/Homes, to our knowledge? If so, explain?

n/a

GENERAL INFORMATION

Type of Association/Community? **Homeowner Association**

If Sub or Master Association, explain? **Master for Fairways Neighborhd**

Date of Association Fiscal Year End? **December 31, 2014**

Is Unit/Home held in Fee Simple? **Yes No**

Does the association permit ownership of 2 or more units under the same master deed or mortgage (duplex-triplex-fourplex) **Yes No**

Limitation on the number of persons who may occupy a unit as a dwelling? **N/A**

Is the project a Manufactured Home community. **Yes No**

Is the project an Assisted Living Community, if so, what services are provided? **N/A**

Is any portion of the condominium association located within a development subject to the Property Owner's Association Act of Chapter 26 of Title 55? **Yes No NA**

If condominium, number of Units owned by Developer? **none**

If condominium, do the legal documents require unit owners to participate in a rental pooling agreement? **Yes No NA**

Is renting/leasing permitted? If so, what restrictions exist?

Yes; Daily rentals permitted

Are pets permitted? If so, are there any restrictions?

Yes

Is there a key to common areas? If so, is there a deposit/amount?

No

Is street parking permitted? If so, are there any restrictions?

Yes

Is RV/Boat storage permitted? If so, are there any restrictions?

No

What areas of the community is the owner responsible to maintain other than their Unit/Home/Lot?

None

Are signs permitted? If so, are there any restrictions?

Yes; There is a special approved sign to be used only.

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Resale Disclosure Statement Bay Creek at Cape Charles

Are free standing flag poles permitted? If so, are there any restrictions?

Yes; Owner must apply for permission

Are temporary flag pole staffs that are attached at an incline to the wall or pillar of the dwelling permitted? **Yes No**

Do flag poles require approval by the Association? **Yes No**

Are there any restrictions, limitations, or prohibition on the right of a lot owner to place a sign on the owner's lot advertising the lot for sale?

NO

Are there any restrictions, limitations or prohibition on the right of a unit owner to display the flag of the United States, including, but not limited to reasonable restrictions as to the size, time, place and manner of placement or display of such flag?

NO

Are there any known project approvals currently in effect that have been issued by any secondary mortgage market agencies? If so, please explain:

N/A

Are there any restrictions, limitations or prohibitions on the right of the unit/lot owner to install or use solar energy collection devices on the unit/lot owner's property? If so, explain:

must get ARC approval

INSURANCE INFORMATION

Insurer's Name? **State Farm**

Contact Information? **J.T. Holland**

Phone Number? **757-442-6100**

The amount of Fidelity coverage for Directors and Officers? **0.00**

Are any Common Area structures located in a Special Flood Hazard Area? **Yes No**

Does the Association have General Liability and Property Insurance coverage? **Yes No**

Amount of General Liability Insurance? **2000000.00**

Amount of Property Insurance coverage? **100500.00**

Minimum number of days required for written notification to be given to association or insurance trustee before any substantial changes or cancellation of the insurance coverage? **N/A**

What additional insurance coverage would normally be secured by each individual unit/homeowner in an association?

N/A

MANAGEMENT COMPANY INFORMATION

This information is being provided by Community Group as a courtesy service to lenders and other real estate professionals. Although Community Group believes that the information provided is complete and accurate, the requesting party understands and acknowledges that this information is subject to change without notice and that Community Group is not responsible for any inaccurate or omitted information.

Resale Disclosure Statement
Bay Creek at Cape Charles

Community Group
3901 Westerre Parkway, Suite 100
Richmond, VA 23233
Phone: 804-270-1800
Fax: 804-346-8640

BRETT CAMPBELL

Community Group Virginia Beach Office:
4534 Bonney Road
Virginia Beach, VA 23462
Phone: 757-499-2200
Fax: 757-499-5928

Community Group Newport News Office:
11818 Rock Landing Drive, Suite 204
Newport News, VA 23606
Phone: 757-873-1800
Fax: 757-873-3441

I hereby certify that the above information is true and correct to the best of my knowledge and belief.

Da'nia Bennett

10/03/2014

Signature of person completing form

Statement Date

This information is being provided by Community Group as a courtesy service to lenders and other real estate professionals. Although Community Group believes that the information provided is complete and accurate, the requesting party understands and acknowledges that this information is subject to change without notice and that Community Group is not responsible for any inaccurate or omitted information.

Property Inspection Report
Bay Creek at Cape Charles

Property Address: 169 Sunset Boulevard Cape Charles VA 23310

Order #: 23-00348168

Order Date: 10/1/2014

GENERAL INFORMATION

Type of Association/Community?

Homeowner Association

If Sub or Master Association, explain?

Master for Fairways Neighborhd

PROPERTY INSPECTION INFORMATION

Date of Inspection

10/1/2014

Time of Inspection

12:00 PM

Inspector's Name

BRETT CAMPBELL

Number of Photos Taken

0

Inspection Observations

No Violations

Covenant Violations Noted

No Violations

I hereby certify that the above information is true and correct to the best of my knowledge and belief.

BRETT CAMPBELL

Signature of person completing form

THIS INSPECTION WAS MADE TO DETERMINE IF THE UNIT/HOME IS IN COMPLIANCE WITH THE COVENANTS, BYLAWS, DESIGN STANDARDS AND RULES OF THE ASSOCIATION. IT IS NOT INTENDED TO COMMENT ON THE STRUCTURAL ASPECTS OF THE UNIT/HOME, NOR ZONING COMPLIANCE, HEALTH REGULATIONS, ETC. IT IS NOT POSSIBLE TO BE 100% CERTAIN OF ASSOCIATION RELATED COMPLIANCE AS NOT ALL AREAS OF THE UNIT/HOME ARE VISIBLE DURING THIS INSPECTION.

This information is being provided by Community Group as a courtesy service to lenders and other real estate professionals. Although Community Group believes that the information provided is complete and accurate, the requesting party understands and acknowledges that this information is subject to change without notice and that Community Group is not responsible for any inaccurate or omitted information.

Commonwealth of Virginia
Department of Professional and Occupational Regulation
Post Office Box 29570
Richmond, Virginia 23242-0570
(804) 367-8510
cic@dpor.virginia.gov
www.dpor.virginia.gov



Common Interest Community Board

VIRGINIA PROPERTY OWNERS' ASSOCIATION DISCLOSURE PACKET NOTICE

The lot being purchased is in a development subject to the Virginia Property Owners' Association Act. The contract to purchase a lot shall disclose that the lot is located in a property owners' association. The purchaser may have the right to cancel the contract after receiving the disclosure packet and the purchaser may request an update of the disclosure packet pursuant to § 55.509.4 of the Code of Virginia.

Living in a common interest community carries with it certain rights, responsibilities and benefits. Benefits include the right to use common areas, which may include swimming pools, parks, playgrounds and other recreational facilities. In order to finance the operation of the common interest community association, each owner is responsible for and obligated to pay periodic assessments, and if necessary, special assessments to ensure that the financial requirements are met.

Use of common areas, financial obligations of lot owners and other rights, responsibilities and benefits associated with the ownership of a lot in this common interest community are subject to the provisions of governing documents that typically include a declaration, articles of incorporation, bylaws and rules and regulations. These documents are important and should be reviewed carefully prior to purchase.

Some decisions are made by the association board of directors, while other decisions are reserved to a vote of association members. The purchaser is bound by all decisions of the association and the board of directors and the provisions of the governing documents.

Failure to comply with the association governing documents can result in legal action taken against the lot owner. Failure to pay assessments and mandatory fees may result in the association filing a lien and/or lawsuit against the lot owner, foreclosing the lien, and other actions permitted by the governing documents and the Property Owners' Association Act.

Documents and information contained in the disclosure packet describe the basis for living in a common interest community and should be reviewed carefully prior to purchase of the lot.

The Association Disclosure Packet must include the following statements:

- Association name, and if incorporated, the state of incorporation and the name and address of the registered agent;
- A statement of any approved expenditures that require an additional assessment during the current year or the immediately succeeding fiscal year;
- A statement of all assessments and other mandatory fees currently imposed by the association;
- A statement whether there is any other entity or facility to which the lot owner may be liable for fees or charges;
- The current reserve study report (or a summary thereof), a statement of the status and amount of any reserve or replacement fund and any portion of the fund allocated by the governing board for a specified project;
- A copy of the association's current budget (or a summary thereof) and a copy of its statement of income and expenses or financial condition for the last fiscal year available, including a statement of the balance due of any outstanding loans of the association;
- A statement of the nature and status of any pending suit or unpaid judgment to which the association is a party and that either could or would have a material impact on the association or its members or that relates to the lot being purchased;
- A statement setting forth the insurance coverage provided for all lot owners by the association, including any fidelity bond maintained by the association, and what additional insurance would normally be secured by each individual lot owner;
- A statement that any improvement or alteration made to the lot, or uses made of the lot or common area assigned thereto by the prior lot owner, are not in violation of any of the instruments referred to in this disclosure notice;
- A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to place a sign on the owner's lot advertising the lot for sale;
- A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to display any flag on the owner's lot, including, but not limited to reasonable restrictions as to the size, place and manner of placement or display of such flag and the installation of any flagpole or similar structure necessary to display such flag;
- A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to install or use solar energy collection devices on the owner's property;
- A statement indicating any known project approvals currently in effect by secondary mortgage market agencies;
- Certification, if applicable, that the association has filed with the Common Interest Community Board the annual report required by §55-516.1 of the Code of Virginia including the filing number assigned by the Common Interest Community Board and the expiration date of the filing; and
- The association complaint procedure as required by 18 VAC 48-70-60 and pursuant to 18 VAC 48-70-40 and 18 VAC 48-70-50.

The Association Disclosure Packet must include the following attachments, if any:

- A copy of the current declaration, the association's articles of incorporation and bylaws, and any rules and regulations or architectural guidelines adopted by the association;
- A copy of notice given to the lot owner by the association of any current or pending rule or architectural violation; and
- A copy of any approved minutes of the board of directors and association meetings for the six calendar months preceding the request for the disclosure packet.

Fire Policy Status

FEBRUARY 26, 2014

BAY CREEK AT CAPE CHARLES
COMMUNITY ASSOC INC
C/O COMMUNITY GROUP
4534 BONNEY RD
VIRGINIA BCH VA 23462-3873

B Ph. (757)491-6200
FIRE Policy: 96-J6-6673-6 F Yr issd: 2002
Xref:

Location: 100 BAY CREEK PARKWAY
CAPE CHARLES VA 23310

Type: CONDOMINIUM
Coverage information
A-BUILDING 3042800
B-BUSN PROP 39700
LOSS INC 12 MONTH

Term: CONT
BPC: Residential Community Association Policy
Renew date: NOV-07-14
Written date: NOV-07-02
Premium: 6,893.00

L-BUSN LIAB 1000000
GEN AGGREGT 2000000
PCO AGGREGT 2000000
M-MED/PERSN 5000
AUX 3042800 39700

Amount paid: 6893.00
Date paid: OCT-29-13
Bill to: INSD
Prev prem: 7,647

Prev risk: 2,964,400

Deductibles applied:5000 OTH PER 2.00% HURR OTHER DED MAY APPLY

Messages:

Year built: 1990

Constr: FRAME

RENYR \$ 960 /CERP C 20.0%
IRPM 0 0.0%

Units: 0728

Zone: 55
Sub zone: 03
Families:28

Move-in: N Entry: DEC-11-02 FMP seg: 03

Balance Sheet Current Period Report

Bay Creek at Cape Charles

As of May 31, 2014

	Balance May 31, 2014
<u>Assets</u>	
Operating Funds	
1000 - Cash-PPB DDA	323,821.86
Total Operating Funds	323,821.86
Reserve Funds	
1326 - Cash-MM Towne Bank	281,775.61
Total Reserve Funds	281,775.61
Accounts Receivable	
1500 - Net HO Past Due/(Prepays)	185,620.72
1505 - 2007/2008 Lot Maint invoices	2,600.00
1510 - Owner Collection Costs to HCS	2,023.11
1525 - A/R 2010 Lot Maintenance	22,750.00
1530 - Allowance for Doubtful accounts	(101,164.57)
Total Accounts Receivable	111,829.26
Other Property & Equipment	
1950 - Equipment	9,760.00
1955 - Accumulated Depreciation	(3,924.00)
Total Other Property & Equipment	5,836.00
Total Assets	723,262.73

Balance Sheet Current Period Report

Bay Creek at Cape Charles

As of May 31, 2014

	<u>Balance May 31, 2014</u>
<u>Liabilities</u>	
Accounts Payable	
2038 - A/P-Breakwater	446,308.27
Total Accounts Payable	446,308.27
Total Liabilities	446,308.27
<u>Owners' Equity</u>	
Owners Equity - Prior Years	
3000 - Retained Earnings	(425,528.76)
Total Owners Equity - Prior Years	(425,528.76)
Reserves	
3102 - Res-Replacements	582,562.82
3136 - Res-Operating	28,298.84
3188 - Res-Earned Interest	804.40
3368 - Irrigation Reserves - Current Yr	400.00
Total Reserves	612,066.06
Total Owners' Equity	186,537.30
Income / (Loss)	90,417.16
Total Liabilities and Owner Equity	723,262.73

Bay Creek Community Association
Board of Directors Meeting
March 12, 2014
7:30 A.M.
Baymark Office

Richard Foster, President of the Bay Creek Board of Directors at 7:35 A.M. called the meeting to order.

Boards of Directors present were Richard Foster, Bobby Jarman and Jeff Foster. Voting members present were Joan Natali (Hollies), John Schoeneck (Fairways), and Andrew Follmer (Kings Bay).

Other Attendees: Brook Parker with Baymark, and Brett Campbell Community Group (management), Oral Lambert with Bay Creek South

Richard Foster, President of the Bay Creek Board of Directors opened the floor for the homeowner's forum. Voting Members and Board discussed general concerns.

The August 2013 meeting minutes were presented. Bobby Jarman made the motion to approve and Jeff Foster second the motion. All in favor unanimous

Financial report was given by Jeff Foster, Treasurer

Manager's report was given by Brett Campbell with general discussion.

Richard Foster made a motion to ratify the e-mail vote to install winter annuals, Bobby Jarman second the motion. All in favor unanimous

Richard Foster made a motion to ratify the e-mail vote to pay Pender & Coward invoices, Bobby Jarman second the motion. All in favor unanimous.

Richard Foster made a motion to ratify the e-mail vote to approve the appointment of the village voting members, Bobby Jarman second the motion. All in favor unanimous.

Richard Foster made a motion to ratify the email vote to purchase a sign, Jeff Foster second the motion. All in favor unanimous.

Richard Foster made a motion to ratify the e-mail vote to approve the 2014 budget, Jeff Foster second the motion. All in favor unanimous.

Richard Foster made a motion to ratify the e-mail vote to approve the Bay Creek contracts, Jeff Foster second the motion. All in favor unanimous.

Richard Foster made a motion to approve the collection policy, Bobby Jarman second the motion. All in favor unanimous.

Landscape, security, and pool report was given by Brook Parker with general discussion.

Richard Foster made a motion to go into executive session for legal matters, Bobby Jarman second the motion. All in favor unanimous.

Mr., Foster made a motion to come out of executive session, Jeff Foster second the motion. All in favor unanimous.

Mr. Foster made a motion to ratify the e-mail votes to accept the payment plan from 409 Arnies Loop and approve the e-mail votes for foreclosure write-offs for 106 Heron Pointe Road and 145 Sunset Boulevard, Jeff Foster second the motions. All in favor unanimous.

With no other business Jeff Foster motioned to adjourn the meeting and Bobby Jarman second the motion at 9:29 A.M. All in favor unanimous

Respectfully Submitted,
Jeff Foster, Secretary