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Doc ID: 021548320020 Type: CRP  
Recorded: 12/17/2008 at 04:00:59 PM  
Fee Amt: \$71.00 Page 1 of 20  
Workflow# 2660402  
Buncombe County, NC  
Otto W. DeBruhl Register of Deeds

BK 4631 PG 1616-1635

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STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

**DECLARATION OF RESTRICTIVE COVENANTS FOR  
DAVENPORT PARK SUBDIVISION**

This Declaration of Restrictive Covenants for Davenport Park Subdivision, entered into this the 15th day of December, 2008, by and between Green Development, LLC, a North Carolina limited liability company (hereinafter referred to as "Developer") and the future Owners of Lots and Homes within the Subdivision designated as "Davenport Park" to be developed as shown on Plat Book 116, at Page 85, as recorded in the Buncombe County, North Carolina Register's Office, including any Lots added by the Developer to the Subdivision in the future.

**WITNESSETH:**

That Whereas, Developer is the owner of the property(s) to be developed as the Davenport Park Subdivision to be developed as shown on Plat Book 116, at Page 85 of the Buncombe County, North Carolina Register's Office, and any lands added by Developer which will be specifically identified at the time of their addition (herein referred to as "Subdivision" and/or "Property"); and

Whereas, Developer desires for protection and benefit of all persons who may hereafter become owners of lots created out of said Subdivision as indicated in the above described Plat and those plats of other Lots added to said Subdivision that may hereinafter be recorded such that the Subdivision property be developed, in its sole and exclusive discretion, with limitations, restrictions and uses. This Declaration shall run with the real property identified herein and are be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof. These covenants are to run with the land and be binding on all parties purchasing Lots and all persons claiming under or through them until January 1, 2028 at which time said covenants shall be automatically extended for successive periods of ten (10) years unless by vote of the owners of Lots within the Subdivision in accordance with the North Carolina Planned Community Act, as amended or then in effect.

Now, Therefore, the Developer does hereby make the following declaration as to easements, restrictions, covenants, conditions, limitations, and uses for the purpose of protecting the value and desirability of the Subdivision properties identified herein:

**ARTICLE I**  
**DEFINITIONS**

**SECTION 1:** "Act" shall mean and refer to the North Carolina Planned Community Act as set forth and contained in Chapter 47F of the North Carolina General Statutes.

**SECTION 2:** "Architectural Review Committee" or "ARC" shall mean and refer to a committee established by the Developer and appointed by the Board of Directors as set forth in Article VII, Section 1.

**SECTION 3:** "Association" shall mean and refer to Davenport Park Homeowners Association, Inc., a North Carolina non-profit corporation, its successors and/or assigns. As of the recording date of this Declaration, Association shall mean and refer to the Association which is formed by the agreement herein. Developer may, at its option, subject additional portions of the property to restrictions which are similar in form to those contained herein, in furtherance of the scheme of development set forth herein. Owners of Lots in additional phases of the Subdivision of Davenport Park shall become members of the Association upon recordation of Plats and/or Declarations for such additional phases which Association is formed hereby.

**SECTION 4:** "Assessments" shall mean and refer to any and all fees or other charges levied by the Association, as determined by a simple majority vote of all Members of the Association.

**SECTION 5:** "Owner" and/or "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of this or subsequent phases of the Davenport Park Subdivision, but excluding those having such interest merely as security for the performance of an obligation.

**SECTION 6:** "Property" shall mean and refer to that certain real property shown on Plat Book 116, at Page 85 of the Buncombe County, North Carolina Register's Office and any additional property added by the Developer as permitted herein.

**SECTION 7:** "Common Elements" shall mean and refer to all real property owned by the Association, or other such property owned by the Developer so designated, for the common use and enjoyment of Owners and shown on the Plat, or any additional plat of the Subdivision Property, together with any area in which the Association has an easement or right and an obligation of maintenance thereof.

**SECTION 8:** "Common Expenses" shall mean and include: (a) all sums lawfully assessed against the owner of any Lot by the Association; (b) expenses of administration, operation, maintenance, repair, replacement of the Common Elements and facilities; (c) expenses agreed upon as Common Expenses by the Association; and (d) hazard and liability insurance premiums as required hereby or otherwise.

**SECTION 9:** "Lot" shall mean refer to any numbered Lot shown on that Plat recorded in Plat Book 116, at Page 85 of the Buncombe County, North Carolina Register's Office, or subsequent additional Plats incorporated into the Subdivision, with the exception of the Common Elements.

**SECTION 10:** "Developer" and/or "Declarant" shall mean and refer to Green Development, LLC., a North Carolina limited liability company, and its successors and/or assigns. The rights and obligations of the Developer as described herein may be conveyed and transferred by Developer by instrument recorded in the Buncombe County, North Carolina Register's Office.

**SECTION 11:** "**Dwelling**" shall mean and refer to a building situated upon a Lot and intended for use and occupancy as a residence.

**SECTION 12:** "**Member**" shall mean and refer to any person or entity who holds membership with voting rights in the Association, which membership shall be derived from ownership of any Lot within Davenport Park Subdivision and any Lots added thereto, and specifically governed under the provisions of Article III, provided herein.

**SECTION 13:** "**Resident**" shall mean and refer to any person, other than an Owner who shall reside within a Dwelling.

**SECTION 14:** "**Restrictions**" shall mean and refer to this Declaration of Restrictive Covenants for Davenport Park Subdivision, as the same may be released, amended or changed, either in whole or part, as provided for herein.

## ARTICLE II

### SUBMISSION OF PROPERTY TO THE ACT AND CREATION OF A PLANNED COMMUNITY

**SECTION 1: Creation of the Subdivision:** Pursuant to the Act, Developer, by recording this Declaration, creates a planned community subdivision initially comprised of the Property. Developer hereby submits the Property to the Act and the terms of this Declaration, and reserves the right to submit additional property to the Davenport Park Subdivision by recording plats thereof and/or amendments to this Declaration.

**SECTION 2: Name:** The name of the planned community subdivision created hereunder is Davenport Park (hereinafter referred to as "Subdivision").

**SECTION 3: Dedication and Conveyance of Common Elements:** The Developer by recording this Declaration Dedicates and Conveys to the Association legal title to the Common Elements, subject to Developer's Rights as set forth herein, including but not limited to the right to unilaterally withdraw, burden or grant easements over and upon such Common Elements, without consent or joinder of the Association or any Owners.

## ARTICLE III

### MEMBERSHIP AND VOTING RIGHTS

**SECTION 1:** The Developer hereby establishes a North Carolina non-profit corporation, known as Davenport Park Homeowners Association, Inc. (herein the "Association"). The Association shall provide for the orderly enforcement of these Restrictions, including but not limited to, the maintenance, upkeep and repair of the rights of way, easements and Common Elements within the Subdivision and the handling of any other matters determined by the Association to be of common interest to Owners within the Subdivision. The Board of Directors of the Association, as governed by the Bylaws, shall constitute the Executive Board as defined in Section 47F-3-103 of the Act. The Association and Board shall be subject to the provisions set forth in the Act, except in such instances where this Declaration permissibly deviates therefrom.

**SECTION 2:** Every Owner of a Lot which is subject to assessments shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment.

**SECTION 3:** The Association shall have three (3) classes of voting memberships:

- (A) **CLASS A:** Class A Members shall be all owners of a Lot (with the exception of Developer) each of whom shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in

any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as the Owners among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

(B) **CLASS B:** Class B Members shall be designated, by reference in the Deed of conveyance, as such at the time of transfer of a Lot from the Developer, at the sole and exclusive discretion of the Developer. The collective Owners of any Lot designated as Class B Members by the Developer shall be entitled to a waiver of any regular annual Assessments, but not including special Assessments, for a period of one (1) year after the effective date of such designation. Any Class B membership shall be automatically converted into a Class A membership upon the happening of any of the following events, whichever occurs first:

- (1) Upon the date of any transfer to a third party of a Lot owned by a Class B Member, or
- (2) Upon the date at which any residence constructed upon the Lot shall be occupied, or
- (3) One (1) year after the effective date of its designation by the Developer.

(C) **CLASS C:** The Class C Member shall be the Developer as hereinabove defined and shall be entitled to three (3) votes for each platted, but undeveloped, Lot owned by the Developer within the various phases of the Subdivision. Any Lot to which Class C membership applies shall automatically convert to a Class A membership upon the date at which any residence constructed upon such Lot shall be occupied. The Class C Member, in consideration of its financial expenses relating to the construction of subdivision streets and improvement of the Common Elements, shall be entitled to a waiver of all Assessments levied by the Association as long as the Developer owns any Lot or property subject to these Restrictions to which a Class C membership is applicable. In the event that the Developer shall add additional Lots to the Subdivision, Class C membership shall apply to such Lots until transferred by the Developer. Class C membership shall automatically be converted to Class A membership upon the happening of any of the following events, whichever occurs first:

- (1) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class C membership; or
- (2) When the Developer elects to convert to Class A membership; or
- (3) On the first day of January, 2018.

#### ARTICLE IV COMMON ELEMENTS

**SECTION 1: Dedication of Common Elements:** All Common Elements, Limited Common Elements, Rights of Way and Easements as defined herein and as shown on the Plat(s) are dedicated and conveyed to the Association for the benefit of the Owners, provided that the Developer, without the consent or joinder of the Association or any Owner, retains the unlimited right and privilege to alter, amend, and withdraw any Common Element during the Declarant Control period as set forth in Article X.

**SECTION 2: Use of Common Elements:** Every Owner is hereby conveyed a non-exclusive right and easement for use, access and enjoyment of the Common Elements, as identified herein and upon the Subdivision Plat(s). Owners may extend these rights and easements to their family, tenants, guests and invitees, subject to regulations imposed by the Board. Any Owner who shall have leased his, her or its Lot shall be deemed to have conveyed his, her or its rights and easements hereunder to any such Tenant.

**SECTION 3: Limitations and Restriction of Common Elements:** The Owners rights and easements relating to the Common Elements are further limited and restricted as follows:

- (A) All limitations and restrictions contained in the Restrictions and any other governing documents; and

- (B) Any limitation or restriction contained in any deed conveying property within the Subdivision; and
- (C) Any limitation, restriction or rule regulating the use of the Common Elements adopted by the Board, including but not limited to, any limitation on number of guests and grants of exclusive use; and
- (D) Any suspension of an Owner's right to use any recreation and social facilities within the Common Elements due to a failure to pay Assessments or other breach of the terms of these Restrictions, or other Subdivision documents; and
- (E) Any reasonable admission or usage fees imposed by the Board for the use of any recreation or social facility situated on the Common Elements; and
- (F) Any usage rights of persons, groups or entities other than Owners upon the Common Elements granted by the Board; and
- (G) Any mortgage, pledge or hypothecation by the Association, acting through the Board, pledging personal or real property as security for money borrowed or debts incurred; and
- (H) Any conveyance or encumbrance of the Common Elements, in whole or in part, as permitted in accordance with this Declaration, by the Association, acting through the Board; and
- (I) Any rights and easements of the Developer relating to the Common Elements; and
- (J) Any rights of Owners to exclusive use of portions of the Common Elements designated as Limited Common Elements.

**SECTION 4: Limited Common Elements:** Portions of the Common Elements may be designated as Limited Common Elements and reserved for the Exclusive use or primary benefit of Owners and occupants of specific Lots. Limited Common Elements may be so designated now or in the future by the Developer or the Association, acting through the Board. In the event that any Common Element shall be designated as a Limited Common Element, all costs relating to maintenance, repair, replacement and insurance of such shall be assessed as a Special Assessment against the Owners to which such is assigned.

#### **ARTICLE V SPECIAL EASEMENTS RESERVED WITHIN DAVENPORT PARK**

**SECTION 1: Entrance Area - Davenport Road:** An easement is hereby established whereby unobstructed sight triangles shall be maintained where the Subdivision road commonly known as Estes Court intersects Davenport Road. The Association may improve the area adjacent to the entrance to Davenport Park from Davenport Road with a sign, gate, lighting, landscaping, mail kiosks, aesthetic features, and/or other improvements in the exclusive discretion of the Developer and Association, but shall not have any obligation to install such improvements. The Association shall maintain and insure any such improvements and shall have the right to add, alter, improve or remove any improvements existent upon the entrance area.

**SECTION 2: Subdivision Roads:** The Developer has established and improved private roads and easements whereby Lots shall access the public right of way for Davenport Road, including but not limited to Estes Court, as shown on the Plat. Such Subdivision rights of way are hereby dedicated as private roadways, until such time as said right of way may be accepted into the North Carolina Secondary Road System. Pursuant to North Carolina General

Statutes Chapter 136, Section 102.6, all future Owners are hereby notified that the rights of way shown on the Plat are private road rights of way dedicated to public use and have been developed to State of North Carolina Department of Transportation specifications. All future Owners, and their heirs successors and assigns covenant and agree to be jointly responsible, on an equal pro-rata basis, for the maintenance and upkeep, repair and service of such rights of way, until such time as the right of way is accepted into the North Carolina Secondary Road System, even in the event that this Declaration is terminated. The Association shall maintain the Subdivision Roads, and such expense shall be included in the assessments, as a Common Expense to be shared on an equal basis by all Class A Members.

**SECTION 3: Easement for Entry:** The Developer reserves unto itself and the Association, acting through the Board, a perpetual easement and right of entry upon any Lot for emergency, security and safety reasons. In the event of an emergency condition, such entry may be without actual notice, in all non-emergency events, provided, however, that such entry may only be during reasonable hours and after reasonable notice. This easement includes the right to enter any Lot to cure any condition which may increase the possibility of fire, slope erosion, risk of personal injury or other hazard, or to correct persistent non-compliance with terms set forth in these Restrictions, the Subdivision Rules and Regulations, or other governing documents. No entry made pursuant to this Section shall be construed as a trespass.

**SECTION 4: Exercise & Walking Trails:** The Developer has designated various exercise and walking trail circuits within the Subdivision for the use and enjoyment of all Owners, Residents and their guests, as shown on the Plat(s). The Developer may improve the trails with surface improvements and other improvements including, but not limited to bridges, exercise apparatus, gazebos, shelters, and sitting benches. The Developer shall not have any obligation to install any such improvements. The Association shall maintain and insure any such improvements, and shall have the right to add, alter, improve or remove any improvements existent upon the Common Elements. No Owner, Resident or guest shall obstruct or interfere with the reasonable use of the Common Elements by any other Owner or Resident. The Association may establish use rules for the trails, including but not limited to their hours of operation.

**SECTION 5: Mail Boxes:** The Developer or Association may either establish a common mail box kiosk upon the Common Elements, or may establish architectural rules relating to the design and placement of mail boxes upon the Lots within the Subdivision.

**SECTION 6: Sewer Easements:** The Developer may designate "Sewer Easements" and sewer rights of ways within the Subdivision to serve the Lots within the Subdivision, in addition to those shown on any Subdivision Plat, and may record revisions to the Plat to specifically locate such "Sewer Easements;" however, the Developer may not establish "Sewer Easements" on Lots conveyed to Owners without the consent and joinder of such Owners. The Developer reserves unto itself, its successors, assigns and ultimately the Association, the right to reallocate or designate additional Sewer Easements as may be reasonably requested by Lot Owners in the future.

**SECTION 7: Utility Easements:** The Developer hereby establishes an easement for utility purposes with the bounds of the Subdivision Roads, and an additional five (5) feet in width along the interior boundaries of all Lots and Common Areas within Davenport Park. Furthermore, the Developer, in its sole discretion, reserves the right to connect to any utility easement within Davenport Park to serve adjacent properties, regardless of whether such adjacent properties are owned by the Developer or are located within the Subdivision.

**SECTION 8: Association Utility Contracts:** The Developer reserves the right to subject the Association to contractual obligations with public utility companies to provide utility services to the Common Elements or Easement Areas within the Subdivision, including but not limited to street lighting, entrance lighting, phone connections, cable television, and any other utilities the Board determines are in the interest of the Owners in its exclusive discretion.

**ARTICLE VI**  
**COVENANT FOR MAINTENANCE ASSESSMENTS**

**SECTION 1: Creation of the Lien and Personal Obligation of Assessments:** The Developer hereby covenants and each Owner of a Lot, by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association any annual Assessments or Special Assessments to be established and collected as herein provided. The amount of such Assessments, as established by the Board, shall be approved by majority vote of the Members present at any meeting of the Association where a Quorum shall exist. The Developer shall bear the responsibility of maintenance of Common Elements from the time of the recording of this Declaration until the Association undertakes such maintenance or upon termination of the Special Declarant Rights as set forth in Article X; however, the Developer may seek reasonable financial contribution from the Association (Assessments collected from Class A Members) for the cost of such maintenance of the Common Elements undertaken by the Developer. Assessments, together with interest, cost and reasonable attorneys' fees shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made.

**SECTION 2: Purpose of Assessments:** The Assessments levied by the Association shall be used to maintain Common Elements, including, but not limited to the following: the cost of repairs, replacements, and additions; the cost of labor, equipment, materials, management, and supervision; the cost of utility services to Common Elements; the procurement and maintenance of insurance related to the use of the Common Elements in accordance with the these Restrictions and the Association By-Laws; the employment of attorneys to represent the Association when necessary; and such other needs as may arise, as determined by the Association. Any such Assessment charged and collected shall relate to the cost of maintenance of the Common Elements and may include a reserve fund in a reasonable amount in anticipation of such costs, as determined by the Association.

**SECTION 3: Road Maintenance:**

(A) **Subdivision Roads:** The Subdivision Roads are private; however, it is anticipated that they will be submitted to the North Carolina Department of Transportation for inclusion within the North Carolina Secondary Road System. The cost of continuing maintenance of subdivision streets shall be a Common Expense as described herein and shall be subject to annual Assessment, until such time as the Subdivision Roads are accepted into the North Carolina Secondary Roads System.

(B) **Shared Drives:** Any Shared Drives within Davenport Park shall be maintained by the Owners of the Lots utilizing such Shared Drives, in a manner such that each Owner shall pay an equal share of such maintenance costs for the entire length of such Shared Drive regardless of the actual portion of such Shared Drive used by any Owner.

**SECTION 4: Notice and Quorum for any Special Assessments:** Written notice of any meeting called for the purpose of authorizing a Special Assessment shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty (60) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum shall apply at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**SECTION 5: Special Assessments for Capital Improvements:** The Developer, during the Developer Control Period and thereafter the Association, may issue Special Assessments for capital improvements to Common Elements within the Subdivision.

**SECTION 6: Uniform Rate of Assessment:** Annual Assessments must be fixed at a uniform rate for all Lots owned by Class A Members. Special Assessments may be applied to any specific Lot or Lots, as provided herein, or as reasonably necessary to make improvements or perform maintenance for the exclusive benefit of any such assessed Lot or Lots.

**SECTION 7: Due Dates of Annual Assessments:** At least thirty (30) days in advance of each Annual Meeting, the Board of Directors shall fix the amount of the annual assessment against each Lot and send written notice of assessment to each Owner subject thereto, which shall be approved by the Members at the Annual Meeting. The Annual Assessments so determined shall become effective thirty (30) days following the Annual Meeting. The due dates of such Assessments shall be established by the Board of Directors; such Assessments shall be payable on the due date, but may be collected in monthly, quarterly, or by annual installments, as established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid.

**SECTION 8: Effect of Nonpayment of Assessments and Remedies:** Any assessment not paid within thirty (30) days of the due date shall bear interest from the due date at a rate of eight percent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose its lien against the Lot against which the delinquent assessment has been levied. No Owner may waive or otherwise escape liability for the assessments provided for herein by the non-use of Common Elements and/or Subdivision roadways, abstention from Association actions, or abandonment of the Lot.

**SECTION 9: Subordination of the Lien to Mortgages:** The lien for the Assessments provided for herein shall be subordinate to the lien of any mortgage, unless the Association shall have filed a claim of lien prior to the recording of said Mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. The sale or transfer of any Lot pursuant to a foreclosure or any proceeding *in lieu* of a mortgage superior to the Assessment lien (not to include a deed given as *settlement in lieu of foreclosure*) shall extinguish the lien of such assessments as to payments which became due prior to such exempted sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof. Nothing herein shall prevent and any mortgagee from, at its option, paying any delinquent obligations of an Owner. The Association shall notify by registered mail, return receipt requested, any mortgagee of any delinquency or default in the presence of any obligations of an Owner prior to taking any action against such Owner which would affect the mortgagee.

## ARTICLE VII ARCHITECTURAL CONTROL

**SECTION 1: Approval of Plans and Specifications:** No building or other structural addition shall be commenced, erected or maintained within Davenport Park Subdivision, nor shall any exterior addition to, change or alteration thereof be made until the plans and specifications shall have been submitted and approved in writing by an Architectural Committee composed of two (2) or more representatives appointed by the Developer. The Developer may transfer, at its sole discretion, its right to appoint members of the Architectural Committee to the Association. In the event that an Architectural Committee has not been formed, then the Developer (or the Association's Board in the event of a transfer of such rights) shall act as the Architectural Committee.

Submissions to the Architectural Committee shall include a site plan showing the location of all planned driveways, walks, parking areas or other improvements, where applicable, and the relation of the location of such improvements to the building setback lines provided for in this declaration or as shown on the Plat(s) for Davenport Park. Any documents submitted shall also name the licensed general contractor, proposed builder, or other proposed individuals who shall be responsible for construction or installation of the improvement and compliance with this article. Plans for Dwellings, structures, and any other proposed improvements shall show front, side and rear elevations



and shall include the kind, material and basic exterior finishes of and colors to be used in the construction of such improvement(s). The Architectural Committee shall have the right to enforce compliance with these Restrictions, and shall have the sole discretion to determine the standards referenced herein and to approve or deny any submission.

In the event the Architectural Committee fails to approve or disapprove any submission of plans, specifications and/or site plans within thirty (30) days after said submissions have been properly delivered, approval will not be required and such submission shall be deemed to have fully complied with this Article.

The Architectural Committee shall have the right to charge a reasonable fee for reviewing each application for approval of plans and specifications. The Owner shall be obligated to begin construction and complete the same in conformity with such plans as have been previously approved by the Architectural Committee, and the Architectural Committee shall be entitled to stop, through injunction or any other legal means, all construction in violation of these Restrictions.

The Architectural Committee shall have the right to enter and inspect the construction of improvements within the Subdivision in order to ensure that the interior construction shall conform to the plans and specifications as such have been previously approved by the Architectural Committee, and the Architectural Committee shall be entitled to stop, through injunction or any other legal means, all construction which fails to conform to said plans and specifications. In the event that the Architectural Committee shall desire entry upon and inspection of any improvements pursuant to this Article, the Architectural Committee shall provide the Owner of the Lot upon which such entry and inspection is desired with a written notice of its intent to inspect at least forty-eight (48) hours prior to the desired date and time of inspection. The Architectural Committee shall reasonably cooperate with the Owner to schedule the date and time of any inspection conducted pursuant to this Section.

**SECTION 2: Architectural Standards.** In addition to those general rules of the Architectural Committee promulgated pursuant to this Article, construction of improvements on any Lot shall conform to the following standards:

- (A) All Dwellings shall be constructed pursuant to the applicable North Carolina Building Codes by duly licensed building contractors and shall be constructed with framing assembled on-site. Construction of Dwellings shall not utilize modular wall sections or other off-site construction of major structural portions of the Dwelling, with the exception of roof and floor trusses.
- (B) All Dwellings or other improvements must be roofed with shingles or other coverings as approved by the Architectural Committee. No Dwelling or other improvement may contain vinyl siding nor exposed block construction, and all external coverings must be pre-approved by the Architectural Committee.
- (C) All fencing located on the portions of the Lots facing the Subdivision roadways shall be of a decorative nature, as determined by the Architectural Committee and shall not be of a chain link type. Any fencing placed upon rear and side (not road facing) shall not be so restricted, and may be of a chain link type.
- (D) In order to preserve and protect values of Lots and Dwellings within the Subdivision, the Architectural Committee may require that the materials and fixtures utilized in any improvements to Lots, whether located in the interior or exterior, are of comparable value and quality as those utilized elsewhere within the Subdivision.

**SECTION 3: Approval of Contractors:** The Architectural Committee shall have the right to approve or reject submission from an Owner solely based on its rejection of the licensed general contractor named in the application. The Architectural Committee shall have exclusive discretion with respect to the approval of contractors. As of the date

of this Declaration, only JAG & Associates Construction, Inc. has been approved to construct improvements within the Subdivision.

**SECTION 4: Construction Impact Deposit:** Each Owner of a Lot may be required to pay a non-refundable "Special Construction Impact Assessment" in the amount of \$2,500.00, or in an amount as reasonably adjusted by the Developer and/or Association, prior to the commencement of any construction or improvement of any Lot in the Davenport Park Subdivision. This "Special Construction Impact Assessment" shall be held in escrow by the Association and used for the maintenance and repair of any subdivision roadways, or other Common Elements impacted by construction activity, and as a guaranty of Owner compliance with Architectural Standards. The "Special Construction Impact Assessment" shall be waived for all Owners employing the services of JAG & Associates Construction, Inc. as general contractor. The Developer and/or the Association may in its sole and exclusive discretion grant a waiver or issue a refund of any "Special Construction Impact Assessment." In any event, the Developer shall be exempt from any Special Construction Impact Assessments.

#### **ARTICLE VIII PROTECTIVE COVENANTS**

**SECTION 1: Residential Use:** All Lots shall be used, improved and devoted exclusively to residential use. No buildings shall be erected, altered, placed or permitted to remain on any Lot other than one single-family Dwelling not to exceed two and one half (2½) stories in height above the highest natural ground elevation existing under the foundation of same and not including more than one (1) underground, one (1) story basement or crawlspace, unless the same shall be approved in advance by the Architectural Committee provided for herein.

**SECTION 2: Driveways, Parking Areas and Landscaping:** Any driveway intersecting the Subdivision Roads or Shared Drives, both primary and secondary, must comply with any applicable standards promulgated by the North Carolina Department of Transportation, must be paved with concrete or other paving materials approved in advance by the Architectural Committee and shall be completed upon the first occurrence of: (i) occupancy of the Dwelling or (ii) within sixty (60) days after exterior construction is completed. All other driveways and parking areas must be paved with concrete or other paving materials approved in advance by the Architectural Committee, and shall be completed in accordance with the same time requirements as provided herein for intersecting driveways. Landscaping shall be completed within five (5) months of the completion of the Dwelling unit, which completion shall be determined by occupancy thereof or by issuance of the certificate of completion by the applicable governmental unit. Such landscaping shall be done pursuant to the landscaping plan approved in advance by the Architectural Committee. In no event shall any living tree with a diameter of six (6) inches or more at a point two (2) feet above-ground level be cut or trimmed without the express written consent of the Architectural Committee. In no event shall any trees be "topped" within the subdivision. This covenant shall not apply to the cutting of trees or limbs where such cutting is necessary for the safe installation and maintenance of any dwelling, auxiliary structure, driveway or parking area constructed in conformity with plans approved by the Architectural Committee. If the Owner shall default under his, her or its obligations described in this Section, the Developer (or the Architectural Committee after transfer of Declarant's rights) may provide for the completion thereof and may enforce the same by suit or filing of a mechanics/materials man lien against the Lot of such Owner. In the event that such action to enforce is necessary, then the Developer and/or the Architectural Committee may include reasonable fees of attorneys incurred by reason of such default in any such claim.

**SECTION 3: Nuisances:** No noxious, offensive or illegal activities shall be conducted upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. No plant, animal, device or thing of any sort whose normal use or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in Davenport Park by the Lot Owners, tenants and guests thereof may be maintained. Any construction activity within the Subdivision shall be restricted to the hours after 7:30am and before 10:00pm from Monday through Saturday. On Sundays or on nationally recognized Holidays, all

construction activity within the Subdivision shall be restricted to the hours after 9:00am and before 6:00pm. Alternate restrictions on construction hours shall be issued in the sole discretion of the Developer and/or the Association.

**SECTION 4: Trade or Business:** No trade or business shall be carried on upon any Lot, but this provision shall not prohibit a home occupation, which does not cause any noxious or offensive activity within Davenport Park. The leasing or rental of a residential home for a term of one (1) month or more shall not constitute a prohibited business hereunder. In any event, no business may be conducted which shall: (i) result in the emission of light, sound or odor beyond the boundary of the Owner's Lot; (ii) violate any zoning ordinance; (iii) involve door to door, postal, telephonic or electronic solicitation of any Residents, or Owners in Davenport Park; (iv) increase traffic within the Subdivision or require more than two (2) deliveries per day; or (v) threaten the security or safety, or in any way constitute a nuisance, hazard or offense to any resident or Owner within the Subdivision. The Board shall be the exclusive and final arbitrator with respect to the issue of whether any particular home occupation constitutes a noxious or offensive activity hereunder.

**SECTION 5: Restriction on Further Subdivision.** No Lot shall be subdivided, or its boundary lines relocated, for any purpose other than to merge any existing Lot or part thereof so as to create a Lot larger than or of size equal to the original Lot, or for the adjustment of Lot boundaries as may be reasonably necessary in order to comply with zoning ordinances, building codes, or Health Department requirements.

**SECTION 6: Animals:** Generally recognized household or yard pets, in reasonable numbers (not to exceed an aggregate of three dogs and/or cats) may be kept and maintained on a Lot, provided such pets are not kept or maintained for commercial purposes. All dog kennels, dog lots, or dog runs must be located in the rear, non-road facing portion of the Owner's Lot. All pets shall be kept within the bounds of a fenced yard, or upon a leash at all times. In the event that a pet shall be kept within a fenced yard (invisible or otherwise), and only upon written approval by the Architectural Committee, the Owner shall supervise such pets to ensure that the pet does not escape the bounds of their Lot. No horses, pigs, llamas, alpacas or other hooved animals may be kept on any Lot. Furthermore, no excessively aggressive dogs may be kept. All pets must be kept under the control of their owner when they are outside the occupant's or Owner's premises and must not become a nuisance to other residents or Owners at any time. The Association shall have the exclusive right to determine "reasonableness" and "excessively aggressive" as it applies in this provision.

**SECTION 7: Fireworks and Firearms:** No hunting, target shooting or other discharge of firearms or other projectile weapons shall be permitted within the Subdivision. In no event shall any Owner permit the use of fireworks upon their Lot, nor shall any fireworks be used within the Common Elements.

**SECTION 8: Motor Vehicles:** All motor vehicles shall be maintained in proper operating condition so as not to be a nuisance by noise, exhaust emissions or otherwise. The operation of motor vehicles on pathways, unpaved Common Areas, walking trails, or roadway shoulders within the Subdivision, shall be strictly subject to rules established therefore by the Association. In any event all vehicles shall have properly functioning mufflers to reduce noise emissions.

**SECTION 9: Motorcycles and Recreational Vehicles:** Unlicensed motorcycles, minibikes, dune buggies, motorized bikes or similar recreational vehicles may not be operated within the bounds of the Subdivision. The Association may make exceptions for golf carts, realtor and maintenance vehicles in its exclusive discretion. Furthermore, no licensed vehicle which produces excessive noise during its operation (as determined in the exclusive discretion of the Association) may be operated within the Subdivision. Licensed and properly maintained motorcycles shall be permitted, provided such shall not be operated in a manner which shall constitute a nuisance to Owners and Residents within the Subdivision.

**SECTION 10: Parking:** No parking or storage of unlicensed, un-inspected or non-operable vehicles shall be allowed on any Lot. All vehicles shall be parked upon approved parking areas, and shall not be permitted to park upon Common Elements, nor upon grassy areas within Lots. In no event shall any vehicle be parked in any way which impedes the flow of traffic within Davenport Park Subdivision or in any way which blocks access to any Lot. Except for emergency repairs, no person shall repair, restore or store any vehicle, boat, trailer or recreational vehicle upon any Lot. Such parking, storage or repair may be undertaken only (if at all) at the sole discretion of the Architectural Committee.

**SECTION 11: Trash and Recycling Receptacles:** All trash and recycling shall be kept only in trash and/or recycling receptacles and in areas upon a Lot, at the sole discretion of the Architectural Committee, that are not visible from any subdivision road. Any trash or recycling receptacle placed upon the margin of any subdivision road for collection shall not be so placed more than twelve (12) hours prior to the scheduled collection, and shall not be permitted to remain more than twelve (12) hours after collection. The Board may establish rules limiting the days which collection may be permitted, or may contract for garbage or recycling removal on behalf of the Owners and include any expense related thereto to the Assessments collected. Owners shall be responsible for ensuring that any construction activity undertaken upon their Lot be conducted in an orderly and sanitary manner and that all construction debris and trash be placed within a receptacle on a daily basis during construction.

**SECTION 12: Sewage:** Every Dwelling unit shall have permanent plumbing, running water and a permanent sewage disposal approved by the Buncombe County Health Department. No temporary plumbing, water or sewage systems shall be allowed on any Lot, except as set forth in Article VIII, Section 29 herein, as it relates to code required facilities during the construction period.

**SECTION 13: Storage Tanks:** Any fuel, gas, oil, and water storage receptacles installed on any Lot shall not be exposed to view and must be placed either within the Dwelling, underground, or within an enclosure pre-approved by the Architectural Committee.

**SECTION 14: Grass and Landscaping Maintenance:** Grass and weeds on all Lots shall be maintained such that the height of such vegetation does not to exceed six (6) inches, in order to prevent an unsightly and unsanitary condition. This obligation shall apply to the area of the Lot shown on the Plat and that area within the right of way of the adjoining such Lot, which obligation is that of the Owner of the Lot in question and is to be done at his/her expense. Any determination of the sufficiency of any Owners compliance with this section shall be the sole discretion of the Architectural Committee. Upon the direction of the Architectural Committee, the Developer and/or Association may enter a Lot for the purpose of mowing grass and weeds, and the cost associated with such maintenance shall be charged to the Owner as a special Assessment as provided herein.

**SECTION 15: Fences and Hedges:** Pet fencing or fencing other than of a decorative nature shall be confined to rear yard of the Dwelling, as viewed from subdivision streets. In no event may any fence, vegetation or hard landscaping be placed in such a way as to obstruct or in any way interfere with the sight lines on subdivision roads. The Architectural Committee may restrict the height of any fence, hedge or wall.

**SECTION 16: Erosion Control:** The Owner of any Lot shall, by acceptance of a Deed for a Lot, be obligated to provide adequate erosion control measures as a part of the construction process in order to minimize siltation or erosion of areas outside the Lot of such Owner. It shall be the duty of the Owner to design and execute such control measures so as to avoid damage to other Lots or properties. If such Owner has not provided adequate control measures which comply with applicable erosion control regulations, or if the Owner is in violation of the section, Developer and/or Association may, after five (5) days written notice to such Owner, perform such measures, in which case the Owner agrees to reimburse within thirty (30) days all costs associated with such control measures.

**SECTION 17: Signs:** No permanent signs of any kind shall be displayed or in such a way that is in public view on any Lot. After occupancy, a sign of not more than five (5) square feet advertising the property for sale or rent shall be allowed upon any Lot. Nothing in this provision shall be construed to prevent Developer from erecting an entrance display sign, signs designed to designate areas within the Subdivision, or any street signs for subdivision streets. Developer may install signs, without restriction, on Lots Owned by Developer and may permit Class B Members to display signs identifying builders or lenders relating to the construction of improvements upon Lots owned by such Class B Members.

**SECTION 18: Exterior Finished:** All exposed chimneys and foundations shall be veneered with brick or stone, or other such materials as approved by the Architectural Committee. All materials used on exteriors of Dwellings and other improvements shall be approved in advance by the Architectural Committee. In no event shall any Dwelling or other improvement be covered with vinyl siding. Retaining or decorative walls shall be brick, stone or other material approved by the Architectural Committee. Unpainted sheet metal may not be exposed to the exterior. All window coverings which are visible from the exterior of any structure shall be of a neutral color and shall be of a design harmonious to the structure and exterior color schemes. All roof stacks and vents shall conform to the color of the roofing material used and shall be installed on the rear side of the roof ridge line of a Dwelling, as viewed from the Subdivision roads.

**SECTION 19: Heating and Air Conditioning Units:** No window type heating or air conditioning unit may be installed on any structure or Dwelling within the Subdivision. All heating and air conditioning units shall be installed on the rear side of the structure or Dwelling and shall be reasonably screened from view as required by the Architectural Committee.

**SECTION 20: Temporary Structures:** No structure of a temporary character, including trailers, mobile homes, tents or shacks shall be placed upon anywhere within the Subdivision at any time, provided, however, that this shall not apply to shelters used by contractors during construction. Outbuildings or partially completed buildings shall not at any time be used as residences on either a temporary or permanent basis.

**SECTION 21: Outside Antennae:** No outside radio or television antennae or satellite dishes shall be erected on any Lot, except as approved in writing by the Architectural Committee. Satellite dishes of no more than thirty-two (32) inches in diameter shall be allowed within the Subdivision, subject to approval of Architectural Committee.

**SECTION 22: Exterior Lights:** No exterior yard lights shall be placed upon any Lot or Common Elements without the prior written approval of the Architectural Committee. Any approved lights shall be operated in accordance with the rules relating to such use as adopted by the Architectural Committee.

**SECTION 23: Playgrounds, Outdoor Recreation, Etc.:** All playground equipment, basketball goals, children's toys, sports equipment, vegetable gardens, patio furniture, outdoor grilling apparatus and swimming pools shall be located only in side or rear yard of Dwelling, as viewed from subdivision roads, and any placement thereof shall be subject to the sole discretion of the Architectural Committee. Above ground swimming pools shall not be permitted.

**SECTION 24: Clothing Lines:** No clothing lines, whether permanent or temporary, may be installed or use upon any Lots or Common Elements within the Subdivision. In no event shall any Owner permit the drying of clothes, linens or other similar materials outside any dwelling within the Subdivision.

**SECTION 25: Setbacks:** No building shall be located on any Lot in violation of setback requirements of any applicable zoning ordinance, or as may be shown on any recorded plats for the Davenport Park Subdivision.

**SECTION 26: Completion of Construction:** Construction of any Dwelling or other improvement shall be completed within one (1) year of its commencement. No Dwelling shall be occupied until completed, and a Dwelling shall be considered complete upon final inspection and approval by applicable municipal or county building inspector.

**SECTION 27: Easements:** Utility and drainage easements affecting all Lots are hereby reserved five (5) feet in width along interior Lot lines and ten (10) feet in width along the front and rear Lot lines on each Subdivision Lot for the installation and maintenance of utilities and drainage facilities. Neither Developer, nor any utility company using the easements herein referred to, shall be liable for any damage done by them or their assigns, agents, employees or servants, to shrubbery, trees, flowers, other landscaping, improvements or to any personal property situated on the land covered by said easements.

**SECTION 28: Construction Damage:** It shall be the obligation of the Owner of a Lot to repair any damage to guttering, paving, water lines, electric lines, or any other improvements within the Subdivision which occurs during the period of construction and is caused by contractors or subcontractors involved in construction on the Owners Lot. In case of any such damage to improvements, the Developer may immediately take such action as is necessary to repair such damage, and the Owner of the said Lot shall, within thirty (30) days, reimburse the Developer for the cost of any such repair which may be charged as a Special Assessment. The Owner of such Lot is responsible for proper removal of any trash or debris resulting from his, her or its construction.

**SECTION 29: Builders and Construction Conduct:** All builders shall provide a "port-a-jon" or other standard portable, self contained lavatory unit at the construction site during construction of a Dwelling, and the location thereof must be pre-approved by the Architectural Review Committee prior to its placement. All trash or other construction debris shall be kept in a contained area (i.e. fenced area or dumpster), and the location thereof must be pre-approved by the Architectural Review Committee prior to its placement. Any Owner, builder, contractor, or sub-contractor operating any vehicles or machinery upon unpaved areas of a Lot shall utilize a sufficient "mud mat," and all such vehicles or machinery shall cross such "mud mat" prior to exiting the boundary of any Lot.

#### **ARTICLE IX OBLIGATIONS OF MORTGAGEES**

The following provisions are established for the benefit of the holders of mortgages (the definition of mortgage to include deeds of trust or other security instruments) encumbering any Lots located within the Davenport Park Subdivision:

**SECTION 1:** The Association shall be obligated to notify the holder of any mortgage on a Lot, upon request of such holder, of any default by the Lot Owner in the performance of any such Owners obligations described herein (including failure to pay assessments as when due) which is not cured within sixty (60) days from date of such default.

**SECTION 2:** All actions taken under to powers of the Association, not specifically provided for herein, and any amendment of these Restrictions must be in accordance with the provisions of the North Carolina Planned Community Act, as amended or then in effect.

**SECTION 3:** Written notice by the Association shall be sent, upon request, to the holder of any mortgages encumbering any of the Lots located within the Subdivision setting forth the purpose of the meeting not less than thirty (30) days in advance of any meeting called for the purpose of amending, extending or renewing any of the provisions of the Restrictions, Articles of Incorporation or Bylaws of the Association. No such amendment, extension or renewal shall alter, modify, change or rescind any right, title, interest or privilege herein granted or accorded to the holder of any mortgage encumbering any Lot located within the Subdivision unless such mortgage holder shall consent thereto in writing.

**SECTION 4:** Mortgagees of any Lot, jointly or singularly, and no sooner than twenty (20) days after sending a written notice to the Owner of its intent to pay, may pay taxes or other charges which are in default and in which may or have become a charge against any of the Common Elements, and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of policy for such Common Elements. Mortgagees making such payments shall be owed immediate reimbursement from the Association. Any mortgagee entitlement to such reimbursement shall forward a copy of the same to the Developer and/or Association.

**ARTICLE X  
SPECIAL DECLARANT RIGHTS**

The Developer hereby reserves unto itself, its successors in interest and assigns, as Special Declarant Rights, as follows:

**SECTION 1:** Developer reserves all the rights set forth in the Act and specifically those rights set forth in and described in Sections 47F-1-103(28) and 47F-3-104 of the Act.

**SECTION 2:** Developer reserves the right to use all types of easements through the Common Elements for the purpose of making improvements, resolving encroachments, connecting to utilities and/or granting access within the Common Areas or upon adjacent parcels or phases of development and to change or alter road access and rights-of-way at any time.

**SECTION 3:** Developer reserves the right to exercise development rights and not to be subject to specific restrictions set forth herein for purposes of development.

**SECTION 4:** Developer reserves the right to maintain sales offices, management offices, and models on Any Lot, upon Common Areas, or elsewhere upon the Property.

**SECTION 5:** Developer reserves the right to withdraw or add certain separate portions of the real estate as shown on the Plat.

**SECTION 6:** Developer reserves the right to add Lots, to relocate the boundaries of any Lot, and the right to designate portions of the Common Area as part of an existing Lot.

**SECTION 7:** Developer reserves the right to access and connect to rights of way, easements, utilities, and common facilities for the benefit of adjacent parcels or phases developed by Developer.

**SECTION 8:** Developer reserves the right to submit the property to a Master Declaration for the Community, including adjacent parcels.

**SECTION 9:** Developer reserves the right to amend these Declarations, without approval or joinder of any Owners, until ninety (90) percent of all Lots are sold (and instruments of conveyance are recorded) by the Developer.

**SECTION 10:** Developer reserves the right to amend boundaries of any Common Area and to grant easements for encroachments upon any Common Area for any improvements within the Community or for improvements constructed by Developer on adjacent property.

**SECTION 11:** Developer reserves the right not to be assessed or to be responsible for any fees or assessments from the Association or otherwise for Lots or portions of the Property titled in the name of the Developer unless such applicable Lot shall be occupied as a residence.

**ARTICLE IX  
GENERAL PROVISIONS**

**SECTION 1: Duration:** These covenants and restrictions contained in these Restrictions shall run with and bind the properties and Lots which are made subject hereto for a period of twenty (20) years from the date this Declaration is recorded in the Office of the Register of Deeds for Buncombe County, North Carolina, after which time, such covenants and restrictions shall be automatically extended for successive periods of ten (10) years each period, unless terminated in its entirety by vote of sixty seven percent (67%) of votes in the Association.

**SECTION 2: Amendment:** This Declaration may be amended as follows:

- (A) During the term of the Declarant Control Period, the Developer reserves the absolute and exclusive right to modify and/or amend this Declaration in whole or in part as the Developer deems proper and appropriate.
- (B) Any other Amendment or other alteration of the terms of these Restrictions, after the Declarant Control Period shall be in accordance with the provisions of the North Carolina Planned Community Act.

**SECTION 3: Enforcement:** The Association, any Owner or the Developer shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed under the provisions of this Declaration, including the right to recover attorney fees for the prevailing party. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In addition, the Board is hereby authorized to assess fines (not to exceed fifty dollars [\$50.00] per day of non-compliance) for failure to comply with any restrictions, conditions, covenants, or rules now or hereafter imposed under the provisions of these Restrictions, Association Bylaws, rules or other subdivision documents.

**SECTION 4: Liability for Common Elements:** The Association shall have exclusive liability for neglect, abuse, damage to, destruction of, and extended warranty for all Common Elements within the Subdivision. The Association shall maintain insurance as reasonably necessary to cover such occurrences. In no event shall the Developer be liable for such occurrences.

**SECTION 5: Adjoining Property:** All purchasers of property with the Subdivision, by acceptance of a Deed, specifically acknowledge that Developer has made no representations as to the uses (whether current, proposed or prospective) of adjoining properties (either by Developer or otherwise), and have been advised that it would be in their interest to investigate such uses. Furthermore, by acceptance of a Deed, all Purchasers specifically release Developer from any and all claims relating to the uses of adjacent properties, as the same may affect the value, use and enjoyment of their property.

**SECTION 6: Severability:** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision in this Declaration, which shall remain in full force and effect.

**SECTION 7: Incorporation of the Act:** In the event of a conflict or ambiguity between these Restrictions and the Act, then these Restrictions shall be deemed to govern. The Act is incorporated herein by reference to the extent not inconsistent with the specific terms set forth herein.

**SECTION 8: Governing Law:** These Restrictions shall be construed and controlled by and under the laws of the State of North Carolina.



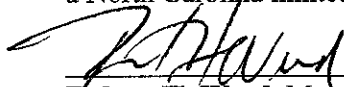
**SECTION 9: Notice of Sale:** All Grantees of any property within the subdivision shall notify the Association, at the address indicated on the Association's most recent filing with the Corporations Division of the Office of the Secretary of State of North Carolina, of the following: (i) the complete names of all parties, or principals of an entity, owning any interest in the Lot; (ii) address whereby said Owners may be contacted; (iii) the telephone number of any resident of said Lot; (iv) the date of closing of the Lot; and (v) any other information reasonably requested by the Board.


**SECTION 10: Consent and Subordination of Mortgagee:** The Consent and Subordination of the Property Mortgagees attached hereto as Exhibit A, Exhibit B and Exhibit C are incorporated herein by reference.

**IN WITNESS WHEREOF**, the Developer has hereunto set its hand and seal, as of the day and year first above written.

**DEVELOPER:**

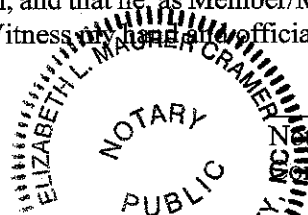
**Green Development, LLC,**  
a North Carolina limited liability company

  
\_\_\_\_\_  
Robert H. Weed, Member/Manager

  
\_\_\_\_\_  
Jody A. Goukas, Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

I, a Notary Public of the County and State aforesaid, certify that **Robert H. Weed**, personally appeared before me this day and acknowledged that he is a **Member/Manager** of **Green Development, LLC**, a North Carolina limited liability corporation, and that he, as Member/Manager and being authorized to do so, executed the foregoing on behalf of the Company. Witness my hand and official stamp or seal, this 15<sup>th</sup> day of December, 2008.

[SEAL]   
\_\_\_\_\_  
Notary Public  
Commission Expiration: 9-24-2012

STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

I, a Notary Public of the County and State aforesaid, certify that **Jody A. Goukas**, personally appeared before me this day and acknowledged that he is a **Member/Manager** of **Green Development, LLC**, a North Carolina limited liability corporation, and that he, as Member/Manager and being authorized to do so, executed the foregoing on behalf of the Company. Witness my hand and official stamp or seal, this 15<sup>th</sup> day of December, 2008.

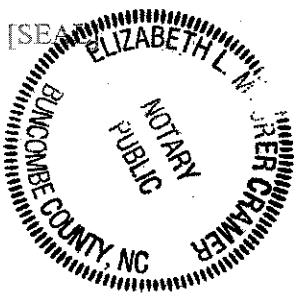
[SEAL]   
\_\_\_\_\_  
Notary Public  
Commission Expiration: 9-24-2012

EXHIBIT A

Consent and Subordination to Declaration of Covenants, Conditions and Restrictions for Davenport Park Subdivision

SCBT, Inc., as Trustee and Southern Community Bank and Trust, a banking association, as Beneficiary of the indebtedness secured by those certain Deeds of Trusts recorded in Record Book 4452, at Page 1205, in Record Book 4576, at Page 1392 and in Record Book 4614, at Page 1061 all of the Buncombe County, NC Register of Deeds Office ("Deeds of Trusts"), which Deeds of Trusts shall encumber all or any portion of the Property as described in the Declaration of Covenants, Conditions and Restrictions for Davenport Park Subdivision (herein "Declaration") hereby consent to the creation of the Property as the same is subjected to this Declaration, the recording of this Declaration, and subordinates the liens of the Deeds of Trusts to this Declaration and to the terms, conditions, covenants, easements and restrictions contained in and imposed by this Declaration.

TRUSTEE: SCBT, Inc.

[Signature] By: Jason Chambers

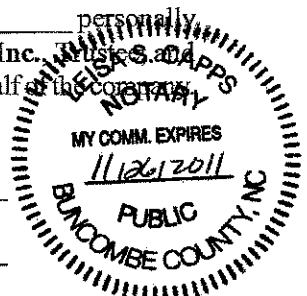
BENEFICIARY: Southern Community Bank and Trust

[Signature] By: Shawn Fitzpatrick

State of North Carolina County of Buncombe

I, a Notary Public of the County and State aforesaid, certify that Jason Chambers personally came before me this day and acknowledged that he is Trustee Vice Pres. of SCBT, Inc. that he, as Vice President, being authorized to do so, executed the foregoing on behalf of the company. Witness my hand and official seal this the 17 day of December, 2008.

[Signature] Notary Public My Commission Expires: 11/26/2011



State of North Carolina County of Buncombe

I, a Notary Public of the County and State aforesaid, certify that Shawn Fitzpatrick personally came before me this day and acknowledged that he is Bank Officer of Southern Community Bank and Trust, and that he, as Bank Officer, being authorized to do so, executed the foregoing on behalf of the company. Witness my hand and official seal this the 17 day of December, 2008.

[Signature] Notary Public My Commission Expires: 11/26/2011

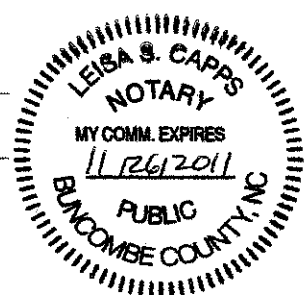


EXHIBIT B

Consent and Subordination to Declaration of Covenants, Conditions and Restrictions for Davenport Park Subdivision

Goosmann Rose, P.A., as Trustee and Anne Weed, as Beneficiary of the indebtedness secured by that certain Deed of Trust recorded in Record Book 4490, at Page 406 in the Buncombe County, NC Register of Deeds Office ("Deeds of Trusts"), which Deed of Trust shall encumber all or any portion of the Property as described in the Declaration of Covenants, Conditions and Restrictions for Davenport Park Subdivision (herein "Declaration") hereby consent to the creation of the Property as the same is subjected to this Declaration, the recording of this Declaration, and subordinates the liens of the Deeds of Trusts to this Declaration and to the terms, conditions, covenants, easements and restrictions contained in and imposed by this Declaration.

TRUSTEE:

Goosmann Rose, P.A.

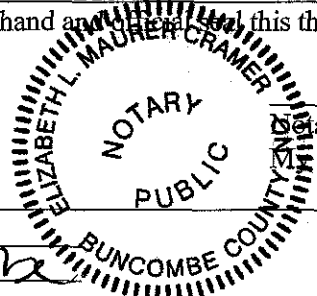
[Signature of George F. Goosmann, IV]
By: George F. Goosmann, IV

BENEFICIARY:

[Signature of Anne Weed by Robert H. Weed, Attorney in Fact]
Anne Weed by Robert H. Weed, Attorney in Fact

State of NC
County of Buncombe

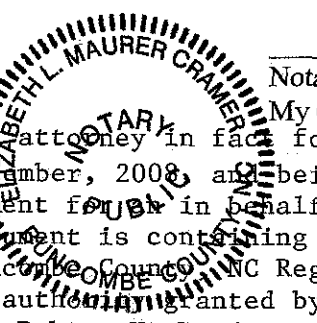
I, a Notary Public of the County and State aforesaid, certify that George F. Goosmann, IV personally came before me this day and acknowledged that he is President of Goosmann Rose, P.A., Trustee, and that he, as President, being authorized to do so, executed the foregoing on behalf of the company. Witness my hand and official seal this the 15th day of December, 2008.



[Signature of Notary]
Notary Public
My Commission Expires: 9-24-2012

State of NC
County of Buncombe

I, a Notary Public of the County and State aforesaid, certify that Anne Weed personally appeared before me this day as Beneficiary and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this the 15th day of December, 2008.



[Signature of Notary]
Notary Public
My Commission Expires: 9-24-2012

\*\*\* Robert H. Weed, attorney in fact for Anne Weed personally appeared before me this the 15th day of December, 2008, and being duly sworn says that he executed the foregoing and annexed instrument for and in behalf of Anne Weed, and that his authority to execute the foregoing instrument is contained in an instrument duly executed, acknowledged and recorded in the Buncombe County, NC Register's Office, and that this instrument was executed under the authority granted by said instrument granting Robert H. Weed power of attorney; that said Robert H. Weed executed the foregoing instrument for the purposes therein expressed for and in behalf of the said Anne Weed.\*\*\*

EXHIBIT C

Consent and Subordination to Declaration of Covenants, Conditions and Restrictions for Davenport Park Subdivision

MTNBK, Ltd, as Trustee and Carolina First Bank, a banking association, as Beneficiary of the indebtedness secured by that certain Deed of Trust recorded in Record Book 4567, at Page 1297 all of the Buncombe County, NC Register of Deeds Office ("Deeds of Trusts"), which Deeds of Trusts shall encumber all or any portion of the Property as described in the Declaration of Covenants, Conditions and Restrictions for Davenport Park Subdivision (herein "Declaration") hereby consent to the creation of the Property as the same is subjected to this Declaration, the recording of this Declaration, and subordinates the liens of the Deeds of Trusts to this Declaration and to the terms, conditions, covenants, easements and restrictions contained in and imposed by this Declaration.

TRUSTEE: MTNBK, Ltd.

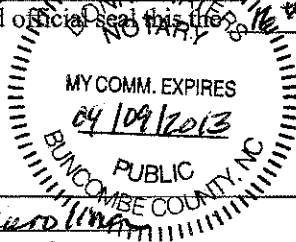
By: [Signature] AVP

BENEFICIARY: Carolina First Bank

By: [Signature] AVP

State of North Carolina County of Buncombe

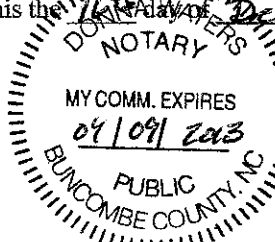
I, a Notary Public of the County and State aforesaid, certify that Jennifer Edwards personally came before me this day and acknowledged that she is Asst. Vice President of MTNBK, Ltd, Trustee, and that she, as Asst. Vice President, being authorized to do so, executed the foregoing on behalf of the company. Witness my hand and official seal this 16th day of December, 2008.



[Signature] Donna Waters Notary Public My Commission Expires: 04/09/2013

State of North Carolina County of Buncombe

I, a Notary Public of the County and State aforesaid, certify that Jennifer Edwards personally came before me this day and acknowledged that she is Asst. Vice President of Carolina First Bank, and that she, as Asst. Vice President, being authorized to do so, executed the foregoing on behalf of the company. Witness my hand and official seal this 16th day of December, 2008.



[Signature] Donna Waters Notary Public My Commission Expires: 04/09/2013